

114TH CONGRESS
2D SESSION

S. 2669

To amend titles XIX and XXI of the Social Security Act to require States to provide to the Secretary of Health and Human Services certain information with respect to provider terminations, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 10, 2016

Mr. CORNYN (for himself and Mr. CARPER) introduced the following bill;
which was read twice and referred to the Committee on Finance

A BILL

To amend titles XIX and XXI of the Social Security Act to require States to provide to the Secretary of Health and Human Services certain information with respect to provider terminations, 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 “Ensuring Removal of
5 Terminated Providers from Medicaid and CHIP Act”.

6 **SEC. 2. INCREASING OVERSIGHT OF TERMINATION OF**
7 **MEDICAID PROVIDERS.**

8 (a) INCREASED OVERSIGHT AND REPORTING.—

1 (1) STATE REPORTING REQUIREMENTS.—Sec-
2 tion 1902(kk) of the Social Security Act (42 U.S.C.
3 1396a(kk)) is amended—

4 (A) by redesignating paragraph (8) as
5 paragraph (9); and

6 (B) by inserting after paragraph (7) the
7 following new paragraph:

8 “(8) PROVIDER TERMINATIONS.—

9 “(A) IN GENERAL.—Beginning on July 1,
10 2018, in the case of a notification under sub-
11 section (a)(41) with respect to a termination for
12 a reason specified in section 455.101 of title 42,
13 Code of Federal Regulations (as in effect on
14 November 1, 2015), or for any other reason
15 specified by the Secretary, of the participation
16 of a provider of services or any other person
17 under the State plan, the State, not later than
18 21 business days after the effective date of such
19 termination, submits to the Secretary with re-
20 spect to any such provider or person, as appro-
21 priate—

22 “(i) the name of such provider or per-
23 son;

24 “(ii) the provider type of such pro-
25 vider or person;

1 “(iii) the specialty of such provider’s
2 or person’s practice;

3 “(iv) the date of birth, social security
4 number, national provider identifier, Fed-
5 eral taxpayer identification number, and
6 the State license or certification number of
7 such provider or person;

8 “(v) the reason for the termination;

9 “(vi) a copy of the notice of termi-
10 nation sent to the provider or person;

11 “(vii) the date on which such termi-
12 nation is effective, as specified in the no-
13 tice; and

14 “(viii) any other information required
15 by the Secretary.

16 “(B) EFFECTIVE DATE DEFINED.—For
17 purposes of this paragraph, the term ‘effective
18 date’ means, with respect to a termination de-
19 scribed in subparagraph (A), the later of—

20 “(i) the date on which such termi-
21 nation is effective, as specified in the no-
22 tice of such termination; or

23 “(ii) the date on which all appeal
24 rights applicable to such termination have

1 been exhausted or the timeline for any
2 such appeal has expired.”.

3 (2) CONTRACT REQUIREMENT FOR MANAGED
4 CARE ENTITIES.—Section 1932(d) of the Social Se-
5 curity Act (42 U.S.C. 1396u–2(d)) is amended by
6 adding at the end the following new paragraph:

7 “(5) CONTRACT REQUIREMENT FOR MANAGED
8 CARE ENTITIES.—With respect to any contract with
9 a managed care entity under section 1903(m) or
10 1905(t)(3) (as applicable), no later than July 1,
11 2018, such contract shall include a provision that
12 providers of services or persons terminated (as de-
13 scribed in section 1902(kk)(8)) from participation
14 under this title, title XVIII, or title XXI be termi-
15 nated from participating under this title as a pro-
16 vider in any network of such entity that serves indi-
17 viduals eligible to receive medical assistance under
18 this title.”.

19 (3) TERMINATION NOTIFICATION DATABASE.—
20 Section 1902 of the Social Security Act (42 U.S.C.
21 1396a) is amended by adding at the end the fol-
22 lowing new subsection:

23 “(1) TERMINATION NOTIFICATION DATABASE.—In
24 the case of a provider of services or any other person
25 whose participation under this title, title XVIII, or title

1 XXI is terminated (as described in subsection (kk)(8)),
2 the Secretary shall, not later than 21 business days after
3 the date on which the Secretary terminates such participa-
4 tion under title XVIII or is notified of such termination
5 under subsection (a)(41) (as applicable), review such ter-
6 mination and, if the Secretary determines appropriate, in-
7 clude such termination in any database or similar system
8 developed pursuant to section 6401(b)(2) of the Patient
9 Protection and Affordable Care Act (42 U.S.C. 1395cc
10 note).”.

11 (4) NO FEDERAL FUNDS FOR ITEMS AND SERV-
12 ICES FURNISHED BY TERMINATED PROVIDERS.—
13 Section 1903 of the Social Security Act (42 U.S.C.
14 1396b) is amended—

15 (A) in subsection (i)(2)—

16 (i) in subparagraph (A), by striking
17 the comma at the end and inserting a
18 semicolon;

19 (ii) in subparagraph (B), by striking
20 “or” at the end; and

21 (iii) by adding at the end the fol-
22 lowing new subparagraph:

23 “(D) beginning not later than July 1,
24 2018, under the plan by any provider of serv-
25 ices or person whose participation in the State

1 plan is terminated (as described in section
 2 1902(kk)(8)) after the date that is 60 days
 3 after the date on which such termination is in-
 4 cluded in the database or other system under
 5 section 1902(ll); or”; and

6 (B) in subsection (m), by inserting after
 7 paragraph (2) the following new paragraph:

8 “(3) No payment shall be made under this title to
 9 a State with respect to expenditures incurred by the State
 10 for payment for services provided by a managed care enti-
 11 ty (as defined under section 1932(a)(1)) under the State
 12 plan under this title (or under a waiver of the plan) unless
 13 the State—

14 “(A) beginning on July 1, 2018, has a contract
 15 with such entity that complies with the requirement
 16 specified in section 1932(d)(5); and

17 “(B) beginning on January 1, 2018, complies
 18 with the requirement specified in section
 19 1932(d)(6)(A).”.

20 (5) DEVELOPMENT OF UNIFORM TERMINOLOGY
 21 FOR REASONS FOR PROVIDER TERMINATION.—Not
 22 later than July 1, 2017, the Secretary of Health and
 23 Human Services shall, in consultation with the
 24 heads of State agencies administering State Med-
 25 icaid plans (or waivers of such plans), issue regula-

1 tions establishing uniform terminology to be used
2 with respect to specifying reasons under subpara-
3 graph (A)(v) of paragraph (8) of section 1902(kk)
4 of the Social Security Act (42 U.S.C. 1396a(kk)), as
5 amended by paragraph (1), for the termination (as
6 described in such paragraph) of the participation of
7 certain providers in the Medicaid program under
8 title XIX of such Act or the Children’s Health In-
9 surance Program under title XXI of such Act.

10 (6) CONFORMING AMENDMENT.—Section
11 1902(a)(41) of the Social Security Act (42 U.S.C.
12 1396a(a)(41)) is amended by striking “provide that
13 whenever” and inserting “provide, in accordance
14 with subsection (kk)(8) (as applicable), that when-
15 ever”.

16 (b) INCREASING AVAILABILITY OF MEDICAID PRO-
17 VIDER INFORMATION.—

18 (1) FFS PROVIDER ENROLLMENT.—Section
19 1902(a) of the Social Security Act (42 U.S.C.
20 1396a(a)) is amended by inserting after paragraph
21 (77) the following new paragraph:

22 “(78) provide that, not later than January 1,
23 2017, in the case of a State plan that provides med-
24 ical assistance on a fee-for-service basis, the State
25 shall require each provider furnishing items and

1 services to individuals eligible to receive medical as-
 2 sistance under such plan to enroll with the State
 3 agency and provide to the State agency the pro-
 4 vider’s identifying information, including the name,
 5 specialty, date of birth, social security number, na-
 6 tional provider identifier, Federal taxpayer identi-
 7 fication number, and the State license or certifi-
 8 cation number of the provider;”.

9 (2) MANAGED CARE PROVIDER ENROLLMENT.—

10 Section 1932(d) of the Social Security Act (42
 11 U.S.C. 1396u–2(d)), as amended by subsection
 12 (a)(2), is amended by adding at the end the fol-
 13 lowing new paragraph:

14 “(6) ENROLLMENT OF PARTICIPATING PRO-
 15 VIDERS.—

16 “(A) IN GENERAL.—Beginning not later
 17 than January 1, 2018, a State shall require
 18 that, in order to participate as a provider in the
 19 network of a managed care entity that provides
 20 services to, or orders, prescribes, refers, or cer-
 21 tifies eligibility for services for, individuals who
 22 are eligible for medical assistance under the
 23 State plan under this title and who are enrolled
 24 with the entity, the provider is enrolled with the
 25 State agency administering the State plan

1 under this title. Such enrollment shall include
 2 providing to the State agency the provider's
 3 identifying information, including the name,
 4 specialty, date of birth, social security number,
 5 national provider identifier, Federal taxpayer
 6 identification number, and the State license or
 7 certification number of the provider.

8 “(B) RULE OF CONSTRUCTION.—Nothing
 9 in subparagraph (A) shall be construed as re-
 10 quiring a provider described in such subpara-
 11 graph to provide services to individuals who are
 12 not enrolled with a managed care entity under
 13 this title.”.

14 (c) COORDINATION WITH CHIP.—

15 (1) IN GENERAL.—Section 2107(e)(1) of the
 16 Social Security Act (42 U.S.C. 1397gg(e)(1)) is
 17 amended—

18 (A) by redesignating subparagraphs (B),
 19 (C), (D), (E), (F), (G), (H), (I), (J), (K), (L),
 20 (M), (N), and (O) as subparagraphs (D), (E),
 21 (F), (G), (H), (I), (J), (K), (M), (N), (O), (P),
 22 (Q), and (R), respectively;

23 (B) by inserting after subparagraph (A)
 24 the following new subparagraphs:

1 “(B) Section 1902(a)(39) (relating to ter-
2 mination of participation of certain providers).

3 “(C) Section 1902(a)(78) (relating to en-
4 rollment of providers participating in State
5 plans providing medical assistance on a fee-for-
6 service basis).”;

7 (C) by inserting after subparagraph (K)
8 (as redesignated by subparagraph (A)) the fol-
9 lowing new subparagraph:

10 “(L) Section 1903(m)(3) (relating to limi-
11 tation on payment with respect to managed
12 care).”; and

13 (D) in subparagraph (P) (as redesignated
14 by subparagraph (A)), by striking “(a)(2)(C)
15 and (h)” and inserting “(a)(2)(C) (relating to
16 Indian enrollment), (d)(5) (relating to contract
17 requirement for managed care entities), (d)(6)
18 (relating to enrollment of providers partici-
19 pating with a managed care entity), and (h)
20 (relating to special rules with respect to Indian
21 enrollees, Indian health care providers, and In-
22 dian managed care entities)”.

23 (2) EXCLUDING FROM MEDICAID PROVIDERS
24 EXCLUDED FROM CHIP.—Section 1902(a)(39) of the
25 Social Security Act (42 U.S.C. 1396a(a)(39)) is

1 amended by striking “title XVIII or any other State
2 plan under this title” and inserting “title XVIII, any
3 other State plan under this title, or any State child
4 health plan under title XXI”.

5 (d) RULE OF CONSTRUCTION.—Nothing in this sec-
6 tion shall be construed as changing or limiting the appeal
7 rights of providers or the process for appeals of States
8 under the Social Security Act.

9 (e) OIG REPORT.—Not later than March 31, 2020,
10 the Inspector General of the Department of Health and
11 Human Services shall submit to Congress a report on the
12 implementation of the amendments made by this section.
13 Such report shall include the following:

14 (1) An assessment of the extent to which pro-
15 viders who are included under subsection (ll) of sec-
16 tion 1902 of the Social Security Act (42 U.S.C.
17 1396a) (as added by subsection (a)(3)) in the data-
18 base or similar system referred to in such subsection
19 are terminated (as described in subsection (kk)(8) of
20 such section, as added by subsection (a)(1)) from
21 participation in all State plans under title XIX of
22 such Act.

23 (2) Information on the amount of Federal fi-
24 nancial participation paid to States under section
25 1903 of such Act in violation of the limitation on

1 such payment specified in subsections (i)(2)(D) and
2 (m)(3) of such section, as added by subsection
3 (a)(4).

4 (3) An assessment of the extent to which con-
5 tracts with managed care entities under title XIX of
6 such Act comply with the requirement specified in
7 section 1932(d)(5) of such Act, as added by sub-
8 section (a)(2).

9 (4) An assessment of the extent to which pro-
10 viders have been enrolled under section 1902(a)(78)
11 or 1932(d)(6)(A) of such Act (42 U.S.C.
12 1396a(a)(78), 1396u-2(d)(6)(A)) with State agen-
13 cies administering State plans under title XIX of
14 such Act.

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