114th CONGRESS
2d Session
HOUSE OF REPRESENTATIVES
REPORT
114–

PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 3716) TO AMEND TITLE XIX 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

March 1, 2016.—Referred to the House Calendar and ordered to be printed.

MR. BURGESS, from the Committee on Rules, submitted the following

REPORT

[To accompany H. Res.__]

The Committee on Rules, having had under consideration House Resolution____, by a nonrecord vote, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for consideration of H.R. 3716, the Ensuring Terminated Providers are Removed from Medicaid and CHIP Act, under a structured rule. The resolution provides one hour of general debate equally divided and controlled by the chair and ranking minority member of the Committee on Energy and Commerce. The resolution waives all points of order against consideration of the bill. The resolution makes in order as original text for purpose of amendment an amendment in the nature of a substitute consisting of the text of Rules Committee Print 114-45 and provides that it shall be considered as read. The resolution waives all points of order against that amendment in the nature of a substitute. The resolution makes in order only those further amendments printed in this report. Each such amendment may be offered only in the order printed in this report, may be offered only by a Member designated in this report, shall be considered as read, shall be debatable for the time specified in this report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. The resolution waives all points of order against the amendments printed in this

report. The resolution provides one motion to recommit with or without instructions.

EXPLANATION OF WAIVERS

The waiver of all points of order against consideration of the bill includes a waiver of clause 3(e)(1) of rule XIII ("Ramseyer"), requiring a committee report accompanying a bill amending or repealing statutes to show, by typographical device, parts of statute affected. The waiver is provided because the submission provided by the Committee on Energy and Commerce was insufficient to meet the standards established by the rule in its current form. The Committee on Rules continues to work with the House Office of Legislative Counsel and committees to determine the steps necessary to comply with the updated rule.

The waiver of all points of order against the amendment in the nature of a substitute made in order as original text includes a waiver of the following:

- Section 303 of the Congressional Budget Act, which prohibits consideration of legislation providing new budget authority for a fiscal year until the budget resolution for that year has been agreed to; and
- Clause 10 of rule XXI, which prohibits the consideration of a bill or amendment if it has the net effect of increasing mandatory spending over the five-year or ten-year period. It is important to note that while the waiver is necessary because the amendment reduces the saving compared to the base bill, the Congressional Budget Office has estimated that compared to current law, the amendment will save $15 million over 10 years.

Although the resolution waives all points of order against the amendments printed in this report, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

SUMMARY OF THE AMENDMENTS MADE IN ORDER

1. Bucshon (IN), Collins, Chris (NY), Welch (VT), Tonko (NY): MANAGER'S Makes technical changes to the bill. The amendment changes the short title to better capture both sections of the bill and changes the effective dates throughout the bill to ensure that states and the Secretary of Health and Human Services have the time necessary to correctly implement the provisions. The amendment adds a requirement for the Inspector General of the Department of Health and Human Services to report on implementation of the requirements regarding providers disenrolled for reasons related to fraud, integrity and quality. Finally, the amendments clarify that the fee-for-service provider directory is to include physicians and, at state option, other providers, and provides other information that could be included in the directory. (10 minutes)
2. Jackson Lee (TX): Provides that determination of ineligibility to work for a Medicaid or CHIP provider does not take effect until the deadline for appeal that determination has expired. (10 minutes)
3. Jackson Lee (TX): Seeks information on the demographics of the people who are provided healthcare by terminated Medicaid Providers. (10 minutes)
4. Moore, Gwen (WI): Requires states to correct on an expedited basis directory information regarding whether the provider is accepting new Medicaid patients. (10 minutes)

TEXT OF AMENDMENTS MADE IN ORDER

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE BUCSHON OF INDIANA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

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AMENDMENT TO RULES COMMITTEE PRINT 114–45

OFFERED BY MR. BUCSHON OF INDIANA

[Amendment to consolidated texts of H.R. 3716 and HR 3821]

Page 1, lines 2 and 3, strike "Ensuring Removal of Terminated Providers from Medicaid and CHIP Act" and insert "Ensuring Access to Quality Medicaid Providers Act".

Page 1, lines 15 and 16, strike "January 1, 2017" and insert "July 1, 2018".

Page 3, lines 1 and 2, strike "the effective date of such termination specified in such notice" and insert "the date on which such termination is effective, as specified in the notice".

Page 3, line 16, strike "REPORTING REQUIREMENTS" and insert "CONTRACT REQUIREMENT".

Page 3, line 20, strike "STATE REPORTING REQUIREMENTS FOR MANAGED CARE ENTITIES" and insert "CONTRACT REQUIREMENT FOR MANAGED CARE ENTITIES".

Page 3, line 22, strike "(A)" and all that follows through "With respect" and insert "With respect".

Page 3, beginning on line 24, strike "applicable), beginning on the later of the first day of the first plan year for such managed care entity that begins after the date of the enactment of this paragraph or January 1, 2017, the State shall require that such contract" and insert "applicable), no later than July 1, 2018, such contract shall".

Page 4, strike lines 12 through 21.

Page 6, line 1, strike "January 1, 2018" and insert "July 1, 2018".

Page 6, line 17, strike "the applicable date specified in subparagraph (A) of section 1932(d)(5)" and insert "July 1, 2018".

Page 6, line 21, strike "(i)".

Page 6, line 21, strike "for the period specified in subparagraph (B) of such section, has a system in effect that meets" and insert "beginning on January 1, 2018, complies with".

Page 6, line 23, strike "such subparagraph; and" and all that follows through page 7, line 2 and insert "section 1932(d)(6)(A).".

Page 7, line 5, strike "January 1, 2017" and insert "July 1, 2017".

Page 10, line 15, strike "paragraph (1)" and insert "subparagraph (A)".

Page 10, line 21, strike "paragraph (1)" and insert "subparagraph (A)".

Page 10, lines 23 and 24, strike "reporting requirements" and insert "contract requirement".

Page 11, after line 15, insert the following:

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

(1) An assessment of the extent to which providers who are included under subsection (ll) of section 1902 of the Social Security Act (42 U.S.C. 1396a) (as added by subsection (a)(3)) in the database or similar system referred to in such subsection are terminated (as described in subsection (kk)(8) of such section, as added by subsection (a)(1)) from participation in all State plans under title XIX of such Act.

(2) Information on the amount of Federal financial participation paid to States under section 1903 of such Act in violation of the limitation on such payment specified in subsections (i)(2)(D) and subsection (m)(3) of such section, as added by subsection (a)(4).

(3) An assessment of the extent to which contracts with managed care entities under title XIX of such Act comply with the requirement specified in section 1932(d)(5) of such Act, as added by subsection (a)(2).

(4) An assessment of the extent to which providers have been enrolled under section 1902(a)(78) or 1932(d)(6)(A) of such Act (42 U.S.C. 1396a(a)(78), 1396u–2(d)(6)(A)) with State agencies administering State plans under title XIX of such Act.

Page 12, lines 1 and 2, strike "180 days after the date of the enactment of this paragraph" and insert "January 1, 2017".

Page 12, line 10, strike "a directory" and all that follows through line 13 and insert the following: "a directory of the physicians described in subsection (mm) and, at State option, other providers described in such subsection that—"

Page 12, after line 13, insert the following:

"(A) includes—".

Page 12, line 14, strike "(A)" and insert "(i)".

Page 12, line 14, insert "physician or" before "provider".

Page 12, line 15, strike "(i)" and insert "(I)".

Page 12, line 15, insert "physician or" before "provider".

Page 12, line 16, strike "(ii)" and insert "(II)".

Page 12, line 16, insert "physician or" before "provider".

Page 12, line 17, strike "(iii)" and insert "(III)".

Page 12, line 17, strike "of the provider" and insert "at which the physician or provider provides services".

Page 12, line 18, strike "(iv)" and insert "(IV)".

Page 12, line 18, insert "physician or" before "provider".

Page 12, line 20, strike "(B)" and insert "(ii)".

Page 12, line 20, insert "physician or" before "provider".

Page 12, line 23, strike "(i)" and insert "(I)".

Page 12, line 23, insert "physician or" before "provider".

Page 13, line 1, strike "(ii)" and insert "(II)".

Page 13, line 1, insert "the physician's" before "provider's".

Page 13, line 3, insert "physician or" before "provider".

Page 13, line 5, strike "provider's office." and insert "physician's or provider's office; and".

Page 13, after line 5, insert the following:

"(B) may include, at State option, with respect to each such physician or provider—

"(i) the Internet website of such physician or provider; or

"(ii) whether the physician or provider is accepting as new patients individuals who receive medical assistance under this title.".

Page 13, line 6, strike "PROVIDERS" and insert "PHYSICIAN OR PROVIDER".

Page 13, line 10, strike "PROVIDERS" and insert "PHYSICIAN OR PROVIDER".

Page 13, line 10, strike "A" and insert "A physician or".

Page 13, line 12, insert "physician or" before "provider of".

Page 13, line 15, insert "physician or" before "provider".

Page 13, line 17, strike "provider with the State agency, a" and insert "physician or provider with the State agency, a physician or".

Page 14, line 1, insert "physician or" before "provider of".

Page 14, line 3, insert "physician or" before "provider".

Page 14, beginning on line 10, strike "in which all the individuals enrolled in the State plan under title XIX of the Social Security Act" and insert "(as defined for purposes of title XIX of the Social Security Act) in which all the individuals enrolled in the State plan under such title".

Page 15, line 3, insert "of Health and Human Services" after "Secretary".

Page 15, line 12, strike "section" and insert "Act".

2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE JACKSON LEE OF TEXAS OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

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AMENDMENT TO RULES COMMITTEE PRINT 114–45

OFFERED BY MS. JACKSON LEE OF TEXAS

Page 3 line 11, insert "but only after any appeals deadline respecting such termination has passed" after "termination".

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3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE JACKSON LEE OF TEXAS OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

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AMENDMENT TO RULES COMMITTEE PRINT 114–45

OFFERED BY MS. JACKSON LEE OF TEXAS

Page 7, after line 17, insert the following (and redesignate the succeeding paragraph accordingly):

(6) REPORT ON DEMOGRAPHICS.—The Secretary of Health and Human Services, acting through the Centers for Medicare & Medicaid Services, shall submit to Congress an annual report on the following:

(A) The demographics of the providers of services and other persons whose participation in the program under title XIX of the Social Security Act has been terminated and who are included in the termination notification database referred to in section 1902(ll) of the Social Security Act, as added by paragraph (3).

(B) The demographics of the population previously served by such providers and persons under such title.

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4. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE MOORE OF WISCONSIN OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

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AMENDMENT TO RULES COMMITTEE PRINT 114–45

OFFERED BY MS. MOORE OF WISCONSIN

Page 12, line 9, insert after "annual basis" the following: " and correct on an expedited basis directory information described in subparagraph (A)(v) in cases where the State receives information indicating that such directory information is not accurate".

Page 12, line 17, strike "and".

Page 12, after line 19, insert the following:

"(v) information regarding whether the provider is accepting as new patients individuals who receive medical assistance under this title; and".

Page 12, line 22, strike "regarding" and all that follows through "the provider's" on page 13, line 1, and insert "regarding the provider's".

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