

FEBRUARY 24, 2016

RULES COMMITTEE PRINT 114-45
TEXT OF H.R. 3716, ENSURING REMOVAL OF
TERMINATED PROVIDERS FROM MEDICAID
AND CHIP ACT

[Showing the texts of H.R. 3716 and H.R. 3821 as reported by
the Committee on Energy and Commerce; with conforming
changes.]

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Ensuring Removal of
3 Terminated Providers from Medicaid and CHIP Act”.

4 **SEC. 2. INCREASING OVERSIGHT OF TERMINATION OF**
5 **MEDICAID PROVIDERS.**

6 (a) INCREASED OVERSIGHT AND REPORTING.—

7 (1) STATE REPORTING REQUIREMENTS.—Sec-
8 tion 1902(kk) of the Social Security Act (42 U.S.C.
9 1396a(kk)) is amended—

10 (A) by redesignating paragraph (8) as
11 paragraph (9); and

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

14 “(8) PROVIDER TERMINATIONS.—

15 “(A) IN GENERAL.—Beginning on January
16 1, 2017, in the case of a notification under sub-

1 section (a)(41) with respect to a termination for
2 a reason specified in section 455.101 of title 42,
3 Code of Federal Regulations (as in effect on
4 November 1, 2015) or for any other reason
5 specified by the Secretary, of the participation
6 of a provider of services or any other person
7 under the State plan, the State, not later than
8 21 business days after the effective date of such
9 termination, submits to the Secretary with re-
10 spect to any such provider or person, as appro-
11 priate—

12 “(i) the name of such provider or per-
13 son;

14 “(ii) the provider type of such pro-
15 vider or person;

16 “(iii) the specialty of such provider’s
17 or person’s practice;

18 “(iv) the date of birth, Social Security
19 number, national provider identifier, Fed-
20 eral taxpayer identification number, and
21 the State license or certification number of
22 such provider or person;

23 “(v) the reason for the termination;

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

1 “(vii) the effective date of such termi-
2 nation specified in such notice; and

3 “(viii) any other information required
4 by the Secretary.

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

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

12 “(ii) the date on which all appeal
13 rights applicable to such termination have
14 been exhausted or the timeline for any
15 such appeal has expired.”.

16 (2) REPORTING REQUIREMENTS FOR MANAGED
17 CARE ENTITIES.—Section 1932(d) of the Social Se-
18 curity Act (42 U.S.C. 1396u–2(d)) is amended by
19 adding at the end the following new paragraph:

20 “(5) STATE REPORTING REQUIREMENTS FOR
21 MANAGED CARE ENTITIES.—

22 “(A) IN GENERAL.—With respect to any
23 contract with a managed care entity under sec-
24 tion 1903(m) or 1905(t)(3) (as applicable), be-
25 ginning on the later of the first day of the first

1 plan year for such managed care entity that be-
2 gins after the date of the enactment of this
3 paragraph or January 1, 2017, the State shall
4 require that such contract include a provision
5 that providers of services or persons terminated
6 (as described in section 1902(kk)(8)) from par-
7 ticipation under this title, title XVIII, or title
8 XXI be terminated from participating under
9 this title as a provider in any network of such
10 entity that serves individuals eligible to receive
11 medical assistance under this title.

12 “(B) NOTIFICATION OF TERMINATION.—
13 For the period beginning on January 1, 2017,
14 and ending on the date on which the enrollment
15 of providers under paragraph (6) is complete
16 for a State, the State shall provide for a system
17 for notifying managed care entities (as defined
18 in subsection (a)(1)) of the termination (as de-
19 scribed in section 1902(kk)(8)) of providers of
20 services or persons from participation under
21 this title, title XVIII, or title XXI.”.

22 (3) TERMINATION NOTIFICATION DATABASE.—
23 Section 1902 of the Social Security Act (42 U.S.C.
24 1396a) is amended by adding at the end the fol-
25 lowing new subsection:

1 “(ll) TERMINATION NOTIFICATION DATABASE.—In
2 the case of a provider of services or any other person
3 whose participation under this title, title XVIII, or title
4 XXI is terminated (as described in subsection (kk)(8)),
5 the Secretary shall, not later than 21 business days after
6 the date on which the Secretary terminates such participa-
7 tion under title XVIII or is notified of such termination
8 under subsection (a)(41) (as applicable), review such ter-
9 mination and, if the Secretary determines appropriate, in-
10 clude such termination in any database or similar system
11 developed pursuant to section 6401(b)(2) of the Patient
12 Protection and Affordable Care Act (42 U.S.C. 1395cc
13 note; Public Law 111–148).”.

14 (4) NO FEDERAL FUNDS FOR ITEMS AND SERV-
15 ICES FURNISHED BY TERMINATED PROVIDERS.—
16 Section 1903 of the Social Security Act (42 U.S.C.
17 1396b) is amended—

18 (A) in subsection (i)(2)—

19 (i) in subparagraph (A), by striking
20 the comma at the end and inserting a
21 semicolon;

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

24 (iii) by adding at the end the fol-
25 lowing new subparagraph:

1 “(D) beginning not later than January 1,
2 2018, under the plan by any provider of serv-
3 ices or person whose participation in the State
4 plan is terminated (as described in section
5 1902(kk)(8)) after the date that is 60 days
6 after the date on which such termination is in-
7 cluded in the database or other system under
8 section 1902(ll); or”; and

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

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

17 “(A) beginning on the applicable date specified
18 in subparagraph (A) of section 1932(d)(5), has a
19 contract with such entity that complies with the re-
20 quirement specified in such subparagraph; and

21 “(B)(i) for the period specified in subparagraph
22 (B) of such section, has a system in effect that
23 meets the requirement specified in such subpara-
24 graph; and

1 “(ii) after such period, complies with section
2 1932(d)(6).”.

3 (5) DEVELOPMENT OF UNIFORM TERMINOLOGY
4 FOR REASONS FOR PROVIDER TERMINATION.—Not
5 later than January 1, 2017, the Secretary of Health
6 and Human Services shall, in consultation with the
7 heads of State agencies administering State Med-
8 icaid plans (or waivers of such plans), issue regula-
9 tions establishing uniform terminology to be used
10 with respect to specifying reasons under subpara-
11 graph (A)(v) of paragraph (8) of section 1902(kk)
12 of the Social Security Act (42 U.S.C. 1396a(kk)), as
13 amended by paragraph (1), for the termination (as
14 described in such paragraph) of the participation of
15 certain providers in the Medicaid program under
16 title XIX of such Act or the Children’s Health In-
17 surance Program under title XXI of such Act.

18 (6) CONFORMING AMENDMENT.—Section
19 1902(a)(41) of the Social Security Act (42 U.S.C.
20 1396a(a)(41)) is amended by striking “provide that
21 whenever” and inserting “provide, in accordance
22 with subsection (kk)(8) (as applicable), that when-
23 ever”.

24 (b) INCREASING AVAILABILITY OF MEDICAID PRO-
25 VIDER INFORMATION.—

1 (1) FFS PROVIDER ENROLLMENT.—Section
2 1902(a) of the Social Security Act (42 U.S.C.
3 1396a(a)) is amended by inserting after paragraph
4 (77) the following new paragraph:

5 “(78) provide that, not later than January 1,
6 2017, in the case of a State plan that provides med-
7 ical assistance on a fee-for-service basis, the State
8 shall require each provider furnishing items and
9 services to individuals eligible to receive medical as-
10 sistance under such plan to enroll with the State
11 agency and provide to the State agency the pro-
12 vider’s identifying information, including the name,
13 specialty, date of birth, Social Security number, na-
14 tional provider identifier, Federal taxpayer identi-
15 fication number, and the State license or certifi-
16 cation number of the provider;”.

17 (2) MANAGED CARE PROVIDER ENROLLMENT.—
18 Section 1932(d) of the Social Security Act (42
19 U.S.C. 1396u–2(d)), as amended by subsection
20 (a)(2), is amended by adding at the end the fol-
21 lowing new paragraph:

22 “(6) ENROLLMENT OF PARTICIPATING PRO-
23 VIDERS.—

24 “(A) IN GENERAL.—Beginning not later
25 than January 1, 2018, a State shall require

1 that, in order to participate as a provider in the
2 network of a managed care entity that provides
3 services to, or orders, prescribes, refers, or cer-
4 tifies eligibility for services for, individuals who
5 are eligible for medical assistance under the
6 State plan under this title and who are enrolled
7 with the entity, the provider is enrolled with the
8 State agency administering the State plan
9 under this title. Such enrollment shall include
10 providing to the State agency the provider's
11 identifying information, including the name,
12 specialty, date of birth, Social Security number,
13 national provider identifier, Federal taxpayer
14 identification number, and the State license or
15 certification number of the provider.

16 “(B) RULE OF CONSTRUCTION.—Nothing
17 in subparagraph (A) shall be construed as re-
18 quiring a provider described in such subpara-
19 graph to provide services to individuals who are
20 not enrolled with a managed care entity under
21 this title.”.

22 (c) COORDINATION WITH CHIP.—

23 (1) IN GENERAL.—Section 2107(e)(1) of the
24 Social Security Act (42 U.S.C. 1397gg(e)(1)) is
25 amended—

1 (A) by redesignating subparagraphs (B),
2 (C), (D), (E), (F), (G), (H), (I), (J), (K), (L),
3 (M), (N), and (O) as subparagraphs (D), (E),
4 (F), (G), (H), (I), (J), (K), (M), (N), (O), (P),
5 (Q), and (R), respectively;

6 (B) by inserting after subparagraph (A)
7 the following new subparagraphs:

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

10 “(C) Section 1902(a)(78) (relating to en-
11 rollment of providers participating in State
12 plans providing medical assistance on a fee-for-
13 service basis).”;

14 (C) by inserting after subparagraph (K)
15 (as redesignated by paragraph (1)) the fol-
16 lowing new subparagraph:

17 “(L) Section 1903(m)(3) (relating to limi-
18 tation on payment with respect to managed
19 care).”; and

20 (D) in subparagraph (P) (as redesignated
21 by paragraph (1)), by striking “(a)(2)(C) and
22 (h)” and inserting “(a)(2)(C) (relating to In-
23 dian enrollment), (d)(5) (relating to reporting
24 requirements for managed care entities), (d)(6)
25 (relating to enrollment of providers partici-

1 pating with a managed care entity), and (h)
2 (relating to special rules with respect to Indian
3 enrollees, Indian health care providers, and In-
4 dian managed care entities)”.
5

6 (2) EXCLUDING FROM MEDICAID PROVIDERS
7 EXCLUDED FROM CHIP.—Section 1902(a)(39) of the
8 Social Security Act (42 U.S.C. 1396a(a)(39)) is
9 amended by striking “title XVIII or any other State
10 plan under this title” and inserting “title XVIII, any
11 other State plan under this title, or any State child
12 health plan under title XXI”.

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

17 **SEC. 3. REQUIRING PUBLICATION OF FEE-FOR-SERVICE
18 PROVIDER DIRECTORY.**

19 (a) IN GENERAL.—Section 1902(a) of the Social Se-
20 curity Act (42 U.S.C. 1396a(a)) is amended—

21 (1) in paragraph (80), by striking “and” at the
22 end;

23 (2) in paragraph (81), by striking the period at
24 the end and inserting “; and”; and

25 (3) by inserting after paragraph (81) the fol-
26 lowing new paragraph:

1 “(82) provide that, not later than 180 days
2 after the date of the enactment of this paragraph,
3 in the case of a State plan that provides medical as-
4 sistance on a fee-for-service basis or through a pri-
5 mary care case-management system described in sec-
6 tion 1915(b)(1) (other than a primary care case
7 management entity (as defined by the Secretary)),
8 the State shall publish (and update on at least an
9 annual basis) on the public Website of the State
10 agency administering the State plan, a directory of
11 the providers (including, at a minimum, primary and
12 specialty care physicians) described in subsection
13 (mm) that includes—

14 “(A) with respect to each such provider—

15 “(i) the name of the provider;

16 “(ii) the specialty of the provider;

17 “(iii) the address of the provider; and

18 “(iv) the telephone number of the pro-

19 vider; and

20 “(B) with respect to any such provider

21 participating in such a primary care case-man-

22 agement system, information regarding—

23 “(i) whether the provider is accepting

24 as new patients individuals who receive

25 medical assistance under this title; and

1 “(ii) the provider’s cultural and lin-
2 guistic capabilities, including the languages
3 spoken by the provider or by the skilled
4 medical interpreter providing interpreta-
5 tion services at the provider’s office.”.

6 (b) DIRECTORY PROVIDERS DESCRIBED.—Section
7 1902 of the Social Security Act (42 U.S.C. 1396a), as
8 amended by section 2(a)(3), is amended by adding at the
9 end the following new subsection:

10 “(mm) DIRECTORY PROVIDERS DESCRIBED.—A pro-
11 vider described in this subsection is—

12 “(1) in the case of a provider of a provider type
13 for which the State agency, as a condition on receiv-
14 ing payment for items and services furnished by the
15 provider to individuals eligible to receive medical as-
16 sistance under the State plan, requires the enroll-
17 ment of the provider with the State agency, a pro-
18 vider that—

19 “(A) is enrolled with the agency as of the
20 date on which the directory is published or up-
21 dated (as applicable) under subsection (a)(82);
22 and

23 “(B) received payment under the State
24 plan in the 12-month period preceding such
25 date; and

1 “(2) in the case of a provider of a provider type
2 for which the State agency does not require such en-
3 rollment, a provider that received payment under the
4 State plan in the 12-month period preceding the
5 date on which the directory is published or updated
6 (as applicable) under subsection (a)(82).”.

7 (c) RULE OF CONSTRUCTION.—

8 (1) IN GENERAL.—The amendment made by
9 subsection (a) shall not be construed to apply in the
10 case of a State in which all the individuals enrolled
11 in the State plan under title XIX of the Social Secu-
12 rity Act (or under a waiver of such plan), other than
13 individuals described in paragraph (2), are enrolled
14 with a medicaid managed care organization (as de-
15 fined in section 1903(m)(1)(A) of such Act (42
16 U.S.C. 1396b(m)(1)(A))), including prepaid inpa-
17 tient health plans and prepaid ambulatory health
18 plans (as defined by the Secretary of Health and
19 Human Services).

20 (2) INDIVIDUALS DESCRIBED.—An individual
21 described in this paragraph is an individual who is
22 an Indian (as defined in section 4 of the Indian
23 Health Care Improvement Act (25 U.S.C. 1603)) or
24 an Alaska Native.

1 (d) EXCEPTION FOR STATE LEGISLATION.—In the
2 case of a State plan under title XIX of the Social Security
3 Act (42 U.S.C. 1396 et seq.), which the Secretary deter-
4 mines requires State legislation in order for the respective
5 plan to meet one or more additional requirements imposed
6 by amendments made by this section, the respective plan
7 shall not be regarded as failing to comply with the require-
8 ments of such title solely on the basis of its failure to meet
9 such an additional requirement before the first day of the
10 first calendar quarter beginning after the close of the first
11 regular session of the State legislature that begins after
12 the date of enactment of this section. For purposes of the
13 previous sentence, in the case of a State that has a 2-
14 year legislative session, each year of the session shall be
15 considered to be a separate regular session of the State
16 legislature.

