

AMENDMENT NO. _____ Calendar No. _____

Purpose: To Improve the bill.

IN THE SENATE OF THE UNITED STATES—114th Cong., 2d Sess.

Amendment to the Conference Report for S. 524

Viz:

1 Strike subsection (h) of section 704.

2 Strike sections 705 and 707 and redesignate section
3 706 as section 705 (and conform the table of contents in
4 section 1 accordingly).

5 On page 70, strike lines 8 through 14 and insert the
6 following:

7 “(III) If required by State law, the
8 nurse practitioner or physician assistant
9 prescribes opioid addiction therapy in col-
10 laboration with or under the supervision of,
11 as applicable, a physician.”.

12 On page 75, between lines 5 and 6, insert the fol-
13 lowing:

1 (d) SENSE OF CONGRESS.—It is the sense of Con-
2 gress that, with respect to the total number of patients
3 that a qualifying physician (as defined in subparagraph
4 (G)(ii) of section 303(g)(2) of the Controlled Substances
5 Act (21 U.S.C. 823(g)(2)) can treat at any one time pur-
6 suant to such section, the Secretary of Health and Human
7 Service should consider raising such total number to 300
8 patients following a third notification to the Secretary of
9 the need and intent of the physician to treat up to 300
10 patients that is submitted to the Secretary not sooner than
11 1 year after the date on which the physician submitted
12 to the Secretary a second notification to treat up to 100
13 patients.

14 At the end of the bill, add the following new title (and
15 conform the table of contents in section 1 accordingly):

16 **TITLE X—ADDITIONAL FUNDING**
17 **FOR REDUCING OPIOID USE**
18 **DISORDERS**
19 **Subtitle A—Opioid Use Disorder**
20 **Funding**

21 **SEC. 1001. FUNDING.**

22 (a) FUNDING.—There are authorized to be appro-
23 priated, and are appropriated, out of monies in the Treas-
24 ury not otherwise obligated, \$920,000,000 for the period

1 of fiscal years 2017 and 2018, to reduce opioid use dis-
2 orders and overdose, to be made available in accordance
3 with this Act.

4 (b) STATE TARGETED RESPONSE COOPERATIVE
5 AGREEMENTS.—Subpart 1 of part B of title V of the Pub-
6 lic Health Service Act (42 U.S.C. 290bb et seq.) is amend-
7 ed by inserting after section 509 the following:

8 **“SEC. 510. STATE TARGETED RESPONSE COOPERATIVE**
9 **AGREEMENTS.**

10 “(a) IN GENERAL.—The Secretary shall enter into
11 additional targeted response cooperative agreements with
12 States under this title to expand opioid use disorder treat-
13 ment capacity and make services more affordable to those
14 who cannot afford such services.

15 “(b) AWARDING OF FUNDING.—The Secretary shall
16 allocate funding to States under this section based on—

17 “(1) the severity of the opioid epidemic in the
18 State; and

19 “(2) the strength of the strategy of the State
20 to respond to such epidemic.

21 “(c) USE OF FUNDS.—Amounts received by a State
22 under this section shall be used to expand treatment ca-
23 pacity and make services more affordable to those who
24 cannot afford such services and to help individuals seek

1 treatment, successfully complete treatment, and sustain
2 recovery.

3 “(d) FUNDING.—From amounts appropriated under
4 section 708(a) of the Comprehensive Addiction and Recov-
5 ery Act of 2016, there shall be made available to carry
6 out this section, \$460,000,000 for each of fiscal years
7 2017 and 2018.”.

8 **Subtitle B—Offsets**

9 **SEC. 1011. TREATMENT OF INFUSION DRUGS FURNISHED** 10 **THROUGH DURABLE MEDICAL EQUIPMENT.**

11 Section 1842(o)(1) of the Social Security Act (42
12 U.S.C. 1395u(o)(1)) is amended—

13 (1) in subparagraph (C), by inserting “(and in-
14 cluding a drug or biological described in subpara-
15 graph (D)(i) furnished on or after January 1,
16 2017)” after “2005”; and

17 (2) in subparagraph (D)—

18 (A) by striking “infusion drugs” and in-
19 serting “infusion drugs or biologicals” each
20 place it appears; and

21 (B) in clause (i)—

22 (i) by striking “2004” and inserting
23 “2004, and before January 1, 2017”; and

24 (ii) by striking “for such drug”.

1 **SEC. 1012. REVISION OF EFFECTIVE DATE OF PROVISION**
2 **LIMITING FEDERAL MEDICAID REIMBURSE-**
3 **MENT TO STATES FOR DURABLE MEDICAL**
4 **EQUIPMENT (DME) TO MEDICARE PAYMENT**
5 **RATES.**

6 (a) IN GENERAL.—Section 1903(i)(27) of the Social
7 Security Act (42 U.S.C. 1396b(i)(27)) is amended by
8 striking “January 1, 2019” and inserting “April 1,
9 2018”.

10 (b) EFFECTIVE DATE.—The amendment made by
11 subsection (a) shall take effect as if included in the enact-
12 ment of section 503 of division O of Public Law 114–113.

13 **SEC. 1013. INCREASING OVERSIGHT OF TERMINATION OF**
14 **MEDICAID PROVIDERS.**

15 (a) INCREASED OVERSIGHT AND REPORTING.—

16 (1) STATE REPORTING REQUIREMENTS.—Sec-
17 tion 1902(kk) of the Social Security Act (42 U.S.C.
18 1396a(kk)) is amended—

19 (A) by redesignating paragraph (8) as
20 paragraph (9); and

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

23 “(8) PROVIDER TERMINATIONS.—

24 “(A) IN GENERAL.—Beginning on July 1,
25 2018, in the case of a notification under sub-
26 section (a)(41) with respect to a termination for

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

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

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

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

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

22 “(v) the reason for the termination;

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

1 “(vii) the date on which such termi-
2 nation is effective, as specified in the no-
3 tice; and

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

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

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

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

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

21 “(5) CONTRACT REQUIREMENT FOR MANAGED
22 CARE ENTITIES.—With respect to any contract with
23 a managed care entity under section 1903(m) or
24 1905(t)(3) (as applicable), no later than July 1,
25 2018, such contract shall include a provision that

1 providers of services or persons terminated (as de-
2 scribed in section 1902(kk)(8)) from participation
3 under this title, title XVIII, or title XXI be termi-
4 nated from participating under this title as a pro-
5 vider in any network of such entity that serves indi-
6 viduals eligible to receive medical assistance under
7 this title.”.

8 (3) TERMINATION NOTIFICATION DATABASE.—
9 Section 1902 of the Social Security Act (42 U.S.C.
10 1396a) is amended by adding at the end the fol-
11 lowing new subsection:

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

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

5 (A) in subsection (i)(2)—

6 (i) in subparagraph (A), by striking
7 the comma at the end and inserting a
8 semicolon;

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

11 (iii) by adding at the end the fol-
12 lowing new subparagraph:

13 “(D) beginning not later than July 1,
14 2018, under the plan by any provider of serv-
15 ices or person whose participation in the State
16 plan is terminated (as described in section
17 1902(kk)(8)) after the date that is 60 days
18 after the date on which such termination is in-
19 cluded in the database or other system under
20 section 1902(ll); or”; and

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

23 “(3) No payment shall be made under this title to
24 a State with respect to expenditures incurred by the State
25 for payment for services provided by a managed care enti-

1 ty (as defined under section 1932(a)(1)) under the State
2 plan under this title (or under a waiver of the plan) unless
3 the State—

4 “(A) beginning on July 1, 2018, has a contract
5 with such entity that complies with the requirement
6 specified in such subparagraph; and

7 “(B) beginning on January 1, 2018, complies
8 with the requirement specified in section
9 1932(d)(6)(A).”.

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

1 (6) CONFORMING AMENDMENT.—Section
2 1902(a)(41) of the Social Security Act (42 U.S.C.
3 1396a(a)(41)) is amended by striking “provide that
4 whenever” and inserting “provide, in accordance
5 with subsection (kk)(8) (as applicable), that when-
6 ever”.

7 (b) INCREASING AVAILABILITY OF MEDICAID PRO-
8 VIDER INFORMATION.—

9 (1) FFS PROVIDER ENROLLMENT.—Section
10 1902(a) of the Social Security Act (42 U.S.C.
11 1396a(a)) is amended by inserting after paragraph
12 (77) the following new paragraph:

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

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

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

8 “(A) IN GENERAL.—Beginning not later
9 than January 1, 2018, a State shall require
10 that, in order to participate as a provider in the
11 network of a managed care entity that provides
12 services to, or orders, prescribes, refers, or cer-
13 tifies eligibility for services for, individuals who
14 are eligible for medical assistance under the
15 State plan under this title and who are enrolled
16 with the entity, the provider is enrolled with the
17 State agency administering the State plan
18 under this title. Such enrollment shall include
19 providing to the State agency the provider’s
20 identifying information, including the name,
21 specialty, date of birth, Social Security number,
22 national provider identifier, Federal taxpayer
23 identification number, and the State license or
24 certification number of the provider.

1 “(B) RULE OF CONSTRUCTION.—Nothing
2 in subparagraph (A) shall be construed as re-
3 quiring a provider described in such subpara-
4 graph to provide services to individuals who are
5 not enrolled with a managed care entity under
6 this title.”.

7 (c) COORDINATION WITH CHIP.—

8 (1) IN GENERAL.—Section 2107(e)(1) of the
9 Social Security Act (42 U.S.C. 1397gg(e)(1)) is
10 amended—

11 (A) by redesignating subparagraphs (B),
12 (C), (D), (E), (F), (G), (H), (I), (J), (K), (L),
13 (M), (N), and (O) as subparagraphs (D), (E),
14 (F), (G), (H), (I), (J), (K), (M), (N), (O), (P),
15 (Q), and (R), respectively;

16 (B) by inserting after subparagraph (A)
17 the following new subparagraphs:

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

20 “(C) Section 1902(a)(78) (relating to en-
21 rollment of providers participating in State
22 plans providing medical assistance on a fee-for-
23 service basis).”;

1 (C) by inserting after subparagraph (K)
2 (as redesignated by subparagraph (A)) the fol-
3 lowing new subparagraph:

4 “(L) Section 1903(m)(3) (relating to limi-
5 tation on payment with respect to managed
6 care).”; and

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

17 (2) EXCLUDING FROM MEDICAID PROVIDERS
18 EXCLUDED FROM CHIP.—Section 1902(a)(39) of the
19 Social Security Act (42 U.S.C. 1396a(a)(39)) is
20 amended by striking “title XVIII or any other State
21 plan under this title” and inserting “title XVIII, any
22 other State plan under this title, or any State child
23 health plan under title XXI”.

24 (d) RULE OF CONSTRUCTION.—Nothing in this sec-
25 tion shall be construed as changing or limiting the appeal

1 rights of providers or the process for appeals of States
2 under the Social Security Act.

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

8 (1) An assessment of the extent to which pro-
9 viders who are included under subsection (ll) of sec-
10 tion 1902 of the Social Security Act (42 U.S.C.
11 1396a) (as added by subsection (a)(3)) in the data-
12 base or similar system referred to in such subsection
13 are terminated (as described in subsection (kk)(8) of
14 such section, as added by subsection (a)(1)) from
15 participation in all State plans under title XIX of
16 such Act.

17 (2) Information on the amount of Federal fi-
18 nancial participation paid to States under section
19 1903 of such Act in violation of the limitation on
20 such payment specified in subsections (i)(2)(D) and
21 subsection (m)(3) of such section, as added by sub-
22 section (a)(4).

23 (3) An assessment of the extent to which con-
24 tracts with managed care entities under title XIX of
25 such Act comply with the requirement specified in

1 section 1932(d)(5) of such Act, as added by sub-
2 section (a)(2).

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