[DISCUSSION DRAFT]

115TH CONGRESS
2D SESSION

H. R. _____

To amend title XIX of the Social Security Act to require as a condition of receipt of full Federal medical assistance percentage under Medicaid that State Medicaid plans have in place certain drug utilization review activities.

IN THE HOUSE OF REPRESENTATIVES

M__. _____ introduced the following bill; which was referred to the Committee on _____

A BILL

To amend title XIX of the Social Security Act to require as a condition of receipt of full Federal medical assistance percentage under Medicaid that State Medicaid plans have in place certain drug utilization review activities.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Medicaid Drug Review, Utilization, Good Governance Improvement Act'' or the ''Medicaid DRUG Improvement Act''.

SEC. 2. MEDICAID DRUG UTILIZATION REVIEW.

(a) STATE PLAN REQUIREMENT.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended—

(1) in paragraph (82), at the end, by striking ''and'';

(2) in paragraph (83), at the end, by striking the period and inserting ''; and''; and

(3) by inserting after paragraph (83) the following new paragraph:

''(84) provide that the State is in compliance with the drug review and utilization requirements under subsection (nn)(1).''.

(b) DRUG REVIEW AND UTILIZATION REQUIREMENTS.—Section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended by adding at the end the following new subsection:

''(nn) DRUG REVIEW AND UTILIZATION REQUIREMENTS.—

''(1) IN GENERAL.—For purposes of subsection (a)(84), the drug review and utilization requirements under this subsection are, beginning October 1, 2019, the following:

''(A) CLAIMS REVIEW LIMITATIONS.—

''(i) IN GENERAL.—The State has in place—

''(I) limitations (as specified by the State) on coverage of refills for opioids and a claims review automated process (as designed and implemented by the State) that indicates when an individual enrolled under the State plan (or under a waiver of the State plan) is prescribed a refill of opioids in excess of such limitation, requiring the denial of coverage under the State plan (or waiver) of such refill;

''(II) limitations (as specified by the State) on the daily milligrams of buprenorphine [and on the maximum daily morphine equivalent] that can be prescribed to an individual enrolled under the State plan (or under a waiver of the State plan) and a claims review automated process (as designed and implemented by the State) that indicates when an individual enrolled under the plan (or waiver) is prescribed buprenorphine [or the morphine equivalent] in excess of such

limitation, requiring the denial of coverage under the plan (or waiver); and

''(III) a claims review automated process (as designed and implemented by the State) that monitors when an individual enrolled under the State plan (or under a waiver of the State plan) is concurrently prescribed opioids and—

''(aa) benzodiazepines;

''(bb) antipsychotics, or

''(cc) drugs for the treatment of human immunodeficiency virus (HIV).

''(ii) MANAGED CARE ENTITIES.—The State requires each managed care entity (as defined in section 1932(a)(1)(B)) with respect to which the State has a contract under section 1903(m) or under section 1905(t)(3) to have in place, with respect to individuals who are eligible for medical assistance under the State plan (or under a waiver of the State plan) and who are enrolled with the entity, the limitations described in subclauses (I) and (II) of clause

(i) and a claims review automated process described in subclause (III) of such clause.

"(B) FORMULARY REQUIREMENT.—The State requires at least one buprenorphine/naloxone combination drug on the formulary of the State plan (or waiver of the State plan).

"(C) PROGRAM TO MONITOR ANTIPSYCHOTIC MEDICATIONS BY CHILDREN.—The State has in place a program (as designed and implemented by the State) to monitor and manage the appropriate use of antipsychotic medications by children enrolled under the State plan (or under a waiver of the State plan) and submits annually to the Secretary such information as the Secretary may require on activities carried out under such program for individuals not more than the age of 18 years generally and children in foster care specifically.

"(D) FRAUD AND ABUSE IDENTIFICATION.—The State has in place a process (as designed and implemented by the State) that identifies potential fraud or abuse of controlled substances by individuals enrolled under the State plan (or under a waiver of the State plan), health care providers prescribing drugs

to individuals so enrolled, and pharmacies dispensing drugs to individuals so enrolled.

''(E) REPORTS.—The State submits to the Secretary a report on information on the limitations, requirement, program, and processes applied by the State under subparagraphs (A) through (D) in accordance with such manner and time as specified by the Secretary.

''(2) ANNUAL REPORT BY SECRETARY.—For each fiscal year beginning with fiscal year 2020, the Secretary shall submit to Congress a report containing information on the most recent reports submitted by States under paragraph (1)(E).''.

(c) MANAGED CARE ENTITIES.—Section 1932 of the Social Security Act (42 U.S.C. 1396u–2) is amended by adding at the end the following new subsection:

''(i) DRUG UTILIZATION REVIEW ACTIVITIES AND REQUIREMENTS.—Beginning not later than October 1, 2019, each contract under a State plan with a managed care entity under section 1903(m) or under section 1905(t)(3) shall provide that the entity is in compliance with the applicable provisions of section 438.3(s)(2) of title 42 of the Code of Federal Regulations, section 483.3(s)(4)) of such title, and section 483.3(s)(5) of such title, or any successor regulation to such provisions.''.

(d) REDUCTION IN FMAP FOR NONCOMPLIANCE.—Section 1903 of the Social Security Act (42 U.S.C. 1396b) is amended by adding at the end the following new subsection:

''(aa) REDUCTION FOR FAILURE TO COMPLY WITH DRUG REVIEW AND UTILIZATION REQUIREMENTS.—For any fiscal year beginning after fiscal year 2019, in the case that a State does not comply with the drug review and utilization requirements under section 1902(nn) with respect to each calendar quarter in such year, the Federal medical assistance percentage shall be reduced by 0.025 percentage point with respect to amounts expended for items and services furnished in calendar quarters the subsequent fiscal year.''.