

[DISCUSSION DRAFT]

115TH CONGRESS
2^D SESSION

H. R. _____

To amend title XIX of the Social Security Act to provide for requirements under the Medicaid program relating to the use of qualified prescription drug monitoring programs and prescribing and dispensing certain controlled substances.

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 provide for requirements under the Medicaid program relating to the use of qualified prescription drug monitoring programs and prescribing and dispensing certain controlled substances.

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 “Medicaid Providers
5 and Pharmacists Required to Note Experiences in Record

1 Systems to Help In-need Patients Act” or the “Medicaid
2 PARTNERSHIP Act”.

3 **SEC. 2. REQUIREMENTS UNDER THE MEDICAID PROGRAM**
4 **RELATING TO QUALIFIED PRESCRIPTION**
5 **DRUG MONITORING PROGRAMS AND PRE-**
6 **SCRIBING AND DISPENSING CERTAIN CON-**
7 **TROLLED SUBSTANCES.**

8 (a) IN GENERAL.—Title XIX of the Social Security
9 Act (42 U.S.C. 1396 et seq.) is amended by inserting after
10 section 1943 the following new section:

11 **“SEC. 1944. REQUIREMENTS RELATING TO QUALIFIED PRE-**
12 **SCRIPTION DRUG MONITORING PROGRAMS**
13 **AND PRESCRIBING AND DISPENSING CER-**
14 **TAIN CONTROLLED SUBSTANCES.**

15 “(a) IN GENERAL.—Beginning **【October 1, 2019】**,
16 a State shall require each covered provider to check the
17 prescription drug history of a covered individual through
18 a qualified prescription drug monitoring program de-
19 scribed in subsection (b) before dispensing to such indi-
20 vidual a controlled substance.

21 “(b) QUALIFIED PRESCRIPTION DRUG MONITORING
22 PROGRAM DESCRIBED.—A qualified prescription drug
23 monitoring program described in this subsection is, with
24 respect to a State, a prescription drug monitoring pro-

1 gram administered by the State that satisfies each of the
2 following criteria:

3 “(1) The program enables a covered provider to
4 obtain information regarding, at a minimum, the
5 prescription drug history of a covered individual with
6 respect to controlled substances in as close to real-
7 time as possible.

8 “(2) The program enables a covered provider to
9 obtain, with respect to a covered individual, a rank-
10 ing, risk score, or any other rating that reflects the
11 known risk profile of such individual. Any such
12 ranking, risk score, or rating shall, at a minimum,
13 take into account the prescription drug history of
14 the covered individual, including, with respect to
15 each controlled substance dispensed to such indi-
16 vidual, the supply authorized and the period of valid-
17 ity of the prescription.

18 “(3) The program allows information described
19 in paragraph (1) to be integrated into the workflow
20 of a covered provider, which may include the elec-
21 tronic system the covered provider uses to dispense
22 controlled substances.

23 “(4) The program allows a covered provider to
24 access the following information with respect to a
25 covered individual:

1 “(A) The number and type of controlled
2 substances dispensed to the covered individual
3 during the most recent 12-month period.

4 “(B) The name, location, and contact in-
5 formation of each covered provider who dis-
6 pensed a controlled substance to the covered in-
7 dividual during the most recent 12-month pe-
8 riod.

9 “(5) The program allows the State Medicaid
10 medical director, the State Medicaid pharmacy
11 director¹, and any pharmacy director (or a designee)
12 of a managed care entity with respect to which the
13 State has a contract under section 1903(m)² to ob-
14 tain and have access to information described in
15 paragraphs (1) through (4) in the same manner and
16 to the same extent as a covered provider.

17 “(c) REPORTS.—

18 “(1) STATE REPORTS.—Not later than March
19 31, 2021, each State shall submit to the Adminis-
20 trator of the Centers for Medicare & Medicaid Serv-
21 ices and publish on a publicly available website of
22 the State a report including, at a minimum, the fol-
23 lowing information for the most recent 12-month pe-
24 riod:

1 “(A) The percentage of covered providers
2 who checked the prescription drug history of a
3 covered individual through a qualified prescrip-
4 tion drug monitoring program described in sub-
5 section (b) before dispensing to such individual
6 a controlled substance.

7 “(B) Trends with respect to dispensing
8 controlled substances such as—

9 “(i) the aggregate number of pill
10 counts;

11 “(ii) the dosage of controlled sub-
12 stances dispensed;

13 “(iii) the number of controlled sub-
14 stances dispensed per covered individual;
15 and

16 “(iv) the types of controlled sub-
17 stances dispensed, including the supplies
18 authorized and the period of validity of
19 prescriptions for such types of substances,
20 in different populations.

21 “(2) REPORT BY CMS.—Not later than October
22 1, 2021, the Administrator of the Centers for Medi-
23 care & Medicaid Services shall publish on the pub-
24 licly available website of the Centers for Medicare &

1 Medicaid Services a report including the following
2 information:

3 “(A) All of the State-level data submitted
4 to the Administrator under paragraph (1).

5 “(B) A summary of the State-level data so
6 submitted and a description of any trends sub-
7 mitted under paragraph (1)(B).

8 “(C) Guidance for States on how States
9 can increase the percentage of covered providers
10 who use qualified prescription drug monitoring
11 programs described in subsection (b).

12 “(D) Best practices for how States and
13 covered providers should use such qualified pre-
14 scription drug monitoring programs to reduce
15 the occurrence of abuse of controlled sub-
16 stances.

17 “(d) SECRETARIAL OPTION TO INCREASE FEDERAL
18 MATCHING RATE FOR CERTAIN EXPENDITURES RELAT-
19 ING TO QUALIFIED PRESCRIPTION DRUG MANAGEMENT
20 PROGRAMS.—The Secretary may increase (by an amount
21 up to 25 percentage points) the Federal medical assistance
22 percentage or Federal matching rate that would otherwise
23 apply to a State under section 1903(a) for a calendar
24 quarter occurring during the period beginning October 1,
25 2018, and ending September 30, 2019, for expenditures

1 by the State for activities under the State plan (or waiver
2 of the State plan) to implement a prescription drug man-
3 agement program that satisfies the criteria described in
4 paragraphs (1) through (5) of subsection (b). In no case
5 shall an increase under this subsection result in a Federal
6 medical assistance percentage or Federal matching rate
7 that exceeds 100 percent.

8 “(e) DECREASED FMAP FOR NONCOMPLIANCE.—In
9 the case of a State that is not in compliance with the re-
10 quirement of subsection (a) during a calendar quarter be-
11 ginning on or after January 1, 2020, the Federal medical
12 assistance percentage for such State for such quarter shall
13 be reduced by 0.025 percentage points.

14 “(f) DEFINITIONS.—In this section:

15 “(1) CONTROLLED SUBSTANCE.—The term
16 ‘controlled substance’ means a drug that is included
17 in schedule II, III, or IV of section 202(c) of the
18 Controlled Substances Act.

19 “(2) COVERED INDIVIDUAL.—The term ‘cov-
20 ered individual’, with respect to a State—

21 “(A) means an individual who is enrolled
22 in the State plan (or under a waiver of such
23 plan); and

24 “(B) does not include an individual who
25 the State determines is receiving—

1 “(i) palliative care; or

2 “(ii) hospice care.

3 “(3) COVERED PROVIDER.—The term ‘covered
4 provider’, with respect to a State, means a health
5 care provider, including a pharmacist, who is li-
6 censed, registered, or otherwise permitted by the
7 State to dispense a controlled substance (or the des-
8 ignee of such provider).

9 “(4) DISPENSE.—The term ‘dispense’ means,
10 with respect to a controlled substance, to deliver the
11 controlled substance to an ultimate user by, or pur-
12 suant to the lawful order of, a covered provider, re-
13 gardless of whether the covered provider uses the
14 Internet or other means to effect such delivery.

15 “(5) ULTIMATE USER.—The term ‘ultimate
16 user’ means, with respect to a controlled substance,
17 an individual who has lawfully obtained, and who
18 possesses, the controlled substance for the use of the
19 individual or for the use of a member of the house-
20 hold of the individual.”.

21 (b) EXCEPTION FOR STATE LEGISLATION.—In the
22 case of a State plan under title XIX of the Social Security
23 Act (42 U.S.C. 1396 et seq.) that the Secretary of Health
24 and Human Services determines requires State legislation
25 in order for the respective plan to meet any requirement

1 imposed by the amendments made by this section, the re-
2 spective plan shall not be regarded as failing to comply
3 with the requirements of such title solely on the basis of
4 its failure to meet such an additional requirement before
5 the first day of the first calendar quarter beginning after
6 the close of the first regular session of the State legisla-
7 ture that begins after the date of the enactment of this
8 Act. For purposes of the previous sentence, in the case
9 of a State that has a 2-year legislative session, each year
10 of the session shall be considered to be a separate regular
11 session of the State legislature.