[DISCUSSION DRAFT]

115TH CONGRESS
2D 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 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 certain controlled substances.

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 Providers Are Required To Note Experiences in Record Systems to Help In-need Patients Act'' or the ''Medicaid PARTNERSHIP Act''.

SEC. 2. REQUIREMENTS UNDER THE MEDICAID PROGRAM RELATING TO QUALIFIED PRESCRIPTION DRUG MONITORING PROGRAMS AND PRESCRIBING CERTAIN CONTROLLED SUBSTANCES.

Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended by inserting after section 1943 the following new section:

"SEC. 1944. REQUIREMENTS RELATING TO QUALIFIED PRESCRIPTION DRUG MONITORING PROGRAMS AND PRESCRIBING CERTAIN CONTROLLED SUBSTANCES.

''(a) IN GENERAL.—Beginning October 1, 2021, a State shall require each covered provider to check the prescription drug history of a covered individual through a qualified prescription drug monitoring program described in subsection (b) before prescribing to such individual a controlled substance.

''(b) QUALIFIED PRESCRIPTION DRUG MONITORING PROGRAM DESCRIBED.—A qualified prescription drug monitoring program described in this subsection is, with respect to a State, a prescription drug monitoring program administered by the State that, at a minimum, satisfies each of the following criteria:

''(1) The program facilitates access by a covered provider to, at a minimum, the following infor-

mation with respect to a covered individual, in as close to real-time as possible:

"(A) Information regarding the prescription drug history of a covered individual with respect to controlled substances.

"(B) The number and type of controlled substances prescribed to the covered individual during at least the most recent 12-month period.

"(C) The name, location, and contact information of each covered provider who prescribed a controlled substance to the covered individual during at least the most recent 12-month period.

"(2) The program facilitates access by a covered provider to, with respect to a covered individual, a ranking, risk score, or any other rating (as determined by the State) that reflects the known risk profile of such individual. Any such ranking, risk score, or rating shall, at a minimum, take into account the prescription drug history of the covered individual, including, with respect to each controlled substance prescribed to such individual, the supply (including dosage and pill count) authorized and the period of validity of the prescription.

''(3) The program facilitates the integration of information described in paragraph (1) into the workflow of a covered provider, which may include the electronic system the covered provider uses to prescribe controlled substances.

''(4) The program facilitates access by the State Medicaid medical director, the State Medicaid pharmacy director, any pharmacy director (or a designee) of a managed care entity with respect to which the State has a contract under section 1903(m), and a pharmacy director (or a designee) of any other entity with which the State or such managed care entity has a contract to manage the pharmaceutical benefit with respect to individuals enrolled in the State plan (or waiver of the State plan) to information described in paragraphs (1) through (3) in the same manner and to the same extent as a covered provider.

''(c) REPORTS.—

''(1) STATE REPORTS.—Not later than March 31, 2023, each State shall submit to the Administrator of the Centers for Medicare & Medicaid Services and publish on a publicly available website of the State a report including, at a minimum, the fol-

lowing information for the most recent 12-month period:

''(A) The percentage of covered providers (as determined pursuant to a process established by the State, which may exclude the prescription drug history of covered individuals who are receiving hospice or palliative care or who are residents of long-term care facilities, as described in section 1905(d)) who checked the prescription drug history of a covered individual through a qualified prescription drug monitoring program described in subsection (b) before prescribing to such individual a controlled substance.

''(B) Aggregate trends with respect to prescribing controlled substances such as—

''(i) the number of pill counts and dosage for controlled substances;

''(ii) the number and dosage of controlled substances prescribed per covered individual; and

''(iii) the types of controlled substances prescribed, including the supplies authorized and the period of validity of prescriptions for such types of substances,

in different populations (such as individuals who are elderly, individuals with disabilities, and individuals who are enrolled under both this title and title XVIII).

''(C) Whether or not the State requires pharmacists to check the prescription drug history of a covered individual through a qualified drug management program before dispensing a controlled substance to such individual.

''(2) REPORT BY CMS.—Not later than October 1, 2023, the Administrator of the Centers for Medicare & Medicaid Services shall publish on the publicly available website of the Centers for Medicare & Medicaid Services a report including the following information:

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

''(B) A summary of the State-level data so submitted and a description of any trends submitted under paragraph (1)(B).

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

''(D) Best practices for how States and covered providers should use such qualified prescription drug monitoring programs to reduce the occurrence of abuse of controlled substances.

''(d) SECRETARIAL OPTION TO INCREASE FEDERAL MATCHING RATE FOR CERTAIN EXPENDITURES RELATING TO QUALIFIED PRESCRIPTION DRUG MANAGEMENT PROGRAMS.—The Secretary shall increase the Federal medical assistance percentage or Federal matching rate that would otherwise apply to a State under section 1903(a) for a calendar quarter occurring during the period beginning October 1, 2018, and ending September 30, 2021, for expenditures by the State for activities under the State plan (or waiver of the State plan) to implement a prescription drug management program that satisfies the criteria described in paragraphs (1) through (4) of subsection (b) if the State (in this subsection referred to as the 'administering State') has in place agreements with all States that are contiguous to such administering State that, when combined, enable covered providers in all such contiguous States to access, through the prescription drug management program, the information that is described in subsection (b)(1) of covered individuals of such administering State and that covered providers in such admin-

istering State are able to access through such program. In no case shall an increase under this subsection result in a Federal medical assistance percentage or Federal matching rate that exceeds 100 percent.

''(e) DECREASED FMAP FOR NONCOMPLIANCE.—In the case of a State that the Secretary determines has not made a good faith effort to be in compliance with the requirement of subsection (a) during a calendar quarter beginning on or after October 1, 2021, the Secretary may reduce the Federal medical assistance percentage for such State for such quarter with respect to amounts expended by the State for medical assistance for covered outpatient drugs by an amount up to 0.025 percentage points.

''(f) RULE OF CONSTRUCTION.—Nothing in this section prevents a State from requiring pharmacists to check the prescription drug history of covered individuals through a qualified drug management program before dispensing controlled substances to such individuals.

''(g) DEFINITIONS.—In this section:

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

''(2) COVERED INDIVIDUAL.—The term 'covered individual' means, with respect to a State, an

individual who is enrolled in the State plan (or under a waiver of such plan).

''(3) COVERED PROVIDER.—

''(A) IN GENERAL.—The term 'covered provider' means, subject to subparagraph (B), with respect to a State, a health care provider who is licensed, registered, or otherwise permitted by the State to prescribe a controlled substance (or the designee of such provider).

''(B) EXCEPTIONS.—

''(i) IN GENERAL.—Beginning October 1, 2021, for purposes of this section, such term does not include a health care provider included in any type of health care provider determined by the Secretary to be exempt from application of this section under clause (ii).

''(ii) EXCEPTIONS PROCESS.—Not later than October 1, 2020, the Secretary, after consultation with the National Association of Medicaid Directors and national health care provider associations, shall determine, based on such consultations, the types of health care providers (if any) that should be exempted from the definition of

the term 'covered provider' for purposes of this section.''.