

Suspend the Rules And Pass the Bill, H. R. 4978, with Amendments

(The amendments strike all after the enacting clause and insert a new text and a new title)

114TH CONGRESS
2^D SESSION

H. R. 4978

To require the Government Accountability Office to submit to Congress a report on neonatal abstinence syndrome (NAS) in the United States and its treatment under Medicaid.

IN THE HOUSE OF REPRESENTATIVES

APRIL 18, 2016

Mr. JENKINS of West Virginia (for himself, Mrs. BUSTOS, Mr. COSTELLO of Pennsylvania, Ms. KUSTER, Mrs. WAGNER, Mr. POLIQUIN, and Mr. WOMACK) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To require the Government Accountability Office to submit to Congress a report on neonatal abstinence syndrome (NAS) in the United States and its treatment under Medicaid.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Nurturing And Sup-
3 porting Healthy Babies Act” or as the “NAS Healthy Ba-
4 bies Act”.

5 **SEC. 2. GAO REPORT ON NEONATAL ABSTINENCE SYN-**
6 **DROME (NAS).**

7 (a) IN GENERAL.—Not later than one year after the
8 date of the enactment of this Act, the Comptroller General
9 of the United States shall submit to the Committee on
10 Energy and Commerce of the House of Representatives
11 and the Committee on Finance and the Committee on
12 Health, Education, Labor and Pensions of the Senate a
13 report on neonatal abstinence syndrome (in this section
14 referred to as “NAS”) in the United States.

15 (b) INFORMATION TO BE INCLUDED IN REPORT.—
16 Such report shall include information on the following:

17 (1) The prevalence of NAS in the United
18 States, including the proportion of children born in
19 the United States with NAS who are eligible for
20 medical assistance under State Medicaid programs
21 under title XIX of the Social Security Act at birth
22 and the costs associated with NAS through such
23 programs.

24 (2) The services for which coverage is available
25 under State Medicaid programs for treatment of in-
26 fants with NAS.

1 (3) The settings (including inpatient, out-
2 patient, hospital-based, and other settings) for the
3 treatment of infants with NAS and the reimburse-
4 ment methodologies and costs associated with such
5 treatment in such settings.

6 (4) The prevalence of utilization of various care
7 settings under State Medicaid programs for treat-
8 ment of infants with NAS and any Federal barriers
9 to treating such infants under such programs, par-
10 ticularly in non-hospital-based settings.

11 (5) What is known about best practices for
12 treating infants with NAS.

13 (c) RECOMMENDATIONS.—Such report also shall in-
14 clude such recommendations as the Comptroller General
15 determines appropriate for improvements that will ensure
16 access to treatment for infants with NAS under State
17 Medicaid programs.

18 **SEC. 3. EXCLUDING ABUSE-DETERRENT FORMULATIONS**
19 **OF PRESCRIPTION DRUGS FROM THE MED-**
20 **ICAID ADDITIONAL REBATE REQUIREMENT**
21 **FOR NEW FORMULATIONS OF PRESCRIPTION**
22 **DRUGS.**

23 (a) IN GENERAL.—The last sentence of section
24 1927(c)(2)(C) of the Social Security Act (42 U.S.C.
25 1396r–8(c)(2)(C)) is amended by inserting before the pe-

1 riod at the end the following: “, but does not include an
2 abuse-deterrent formulation of the drug (as determined by
3 the Secretary), regardless of whether such abuse-deterrent
4 formulation is an extended release formulation”.

5 (b) EFFECTIVE DATE.—The amendment made by
6 subsection (a) shall apply to drugs that are paid for by
7 a State in calendar quarters beginning on or after the date
8 of the enactment of this Act.

9 **SEC. 4. LIMITING DISCLOSURE OF PREDICTIVE MODELING**
10 **AND OTHER ANALYTICS TECHNOLOGIES TO**
11 **IDENTIFY AND PREVENT WASTE, FRAUD, AND**
12 **ABUSE.**

13 (a) IN GENERAL.—Title XI of the Social Security Act
14 is amended by inserting after section 1128J (42 U.S.C.
15 1320a–7k) the following new section:

16 **“SEC. 1128K. DISCLOSURE OF PREDICTIVE MODELING AND**
17 **OTHER ANALYTICS TECHNOLOGIES TO IDEN-**
18 **TIFY AND PREVENT WASTE, FRAUD, AND**
19 **ABUSE.**

20 “(a) REFERENCE TO PREDICTIVE MODELING TECH-
21 NOLOGIES REQUIREMENTS.—For provisions relating to
22 the use of predictive modeling and other analytics tech-
23 nologies to identify and prevent waste, fraud, and abuse
24 with respect to the Medicare program under title XVIII,
25 the Medicaid program under title XIX, and the Children’s

1 Health Insurance Program under title XXI, see section
2 4241 of the Small Business Jobs Act of 2010 (42 U.S.C.
3 1320a–7m).

4 “(b) LIMITING DISCLOSURE OF PREDICTIVE MOD-
5 ELING TECHNOLOGIES.—In implementing such provisions
6 under such section 4241 with respect to covered algo-
7 rithms (as defined in subsection (c)), the following shall
8 apply:

9 “(1) NONAPPLICATION OF FOIA.—The covered
10 algorithms used or developed for purposes of such
11 section (including by the Secretary or a State (or an
12 entity operating under a contract with a State))
13 shall be exempt from disclosure under section
14 552(b)(3) of title 5, United States Code.

15 “(2) LIMITATION WITH RESPECT TO USE AND
16 DISCLOSURE OF INFORMATION BY STATE AGEN-
17 CIES.—

18 “(A) IN GENERAL.—A State agency may
19 not use or disclose covered algorithms used or
20 developed for purposes of such section except
21 for purposes of administering the State plan (or
22 a waiver of the plan) under the Medicaid pro-
23 gram under title XIX or the State child health
24 plan (or a waiver of the plan) under the Chil-
25 dren’s Health Insurance Program under title

1 XXI, including by enabling an entity operating
2 under a contract with a State to assist the
3 State to identify or prevent waste, fraud, and
4 abuse with respect to such programs.

5 “(B) INFORMATION SECURITY.—A State
6 agency shall have in effect data security and
7 control policies that the Secretary finds ade-
8 quate to ensure the security of covered algo-
9 rithms used or developed for purposes of such
10 section 4241 and to ensure that access to such
11 information is restricted to authorized persons
12 for purposes of authorized uses and disclosures
13 described in subparagraph (A).

14 “(C) PROCEDURAL REQUIREMENTS.—
15 State agencies to which information is disclosed
16 pursuant to such section 4241 shall adhere to
17 uniform procedures established by the Sec-
18 retary.

19 “(c) COVERED ALGORITHM DEFINED.—In this sec-
20 tion, the term ‘covered algorithm’—

21 “(1) means a predictive modeling or other ana-
22 lytics technology, as used for purposes of section
23 4241(a) of the Small Business Jobs Act of 2010 (42
24 U.S.C. 1320a–7m(a)) to identify and prevent waste,
25 fraud, and abuse with respect to the Medicare pro-

1 gram under title XVIII, the Medicaid program
2 under title XIX, and the Children’s Health Insur-
3 ance Program under title XXI; and

4 “(2) includes the mathematical expressions uti-
5 lized in the application of such technology and the
6 means by which such technology is developed.”.

7 (b) CONFORMING AMENDMENTS.—

8 (1) MEDICAID STATE PLAN REQUIREMENT.—

9 Section 1902(a) of the Social Security Act (42
10 U.S.C. 1396a(a)) is amended—

11 (A) in paragraph (80), by striking “and”
12 at the end;

13 (B) in paragraph (81), by striking the pe-
14 riod at the end and inserting “; and”; and

15 (C) by inserting after paragraph (81) the
16 following new paragraph:

17 “(82) provide that the State agency responsible
18 for administering the State plan under this title pro-
19 vides assurances to the Secretary that the State
20 agency is in compliance with subparagraphs (A),
21 (B), and (C) of section 1128K(b)(2).”.

22 (2) STATE CHILD HEALTH PLAN REQUIRE-
23 MENT.—Section 2102(a)(7) of the Social Security
24 Act (42 U.S.C. 1397bb(a)(7)) is amended—

1 (A) in subparagraph (A), by striking “,
2 and” at the end and inserting a semicolon;

3 (B) in subparagraph (B), by striking the
4 period at the end and inserting “; and”; and

5 (C) by adding at the end the following new
6 subparagraph:

7 “(C) to ensure that the State agency in-
8 volved is in compliance with subparagraphs (A),
9 (B), and (C) of section 1128K(b)(2).”.

10 **SEC. 5. MEDICAID IMPROVEMENT FUND.**

11 Section 1941(b)(1) of the Social Security Act (42
12 U.S.C. 1396w-1(b)(1)) is amended to read as follows:

13 “(1) IN GENERAL.—There shall be available to
14 the Fund, for expenditures from the Fund for fiscal
15 year 2021 and thereafter, \$5,000,000.”.

Amend the title so as to read: “A bill to require the Government Accountability Office to submit to Congress a report on neonatal abstinence syndrome (NAS) in the United States and its treatment under Medicaid, and for other purposes.”.