

**Suspend the Rules and Pass the Bill, H.R. 3253, with An Amendment**

**(The amendment strikes all after the enacting clause and inserts a new text)**

116<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 3253

To provide for certain extensions with respect to the Medicaid program under title XIX of the Social Security Act, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 13, 2019

Mrs. DINGELL (for herself, Mr. GUTHRIE, Mr. PALLONE, Mr. WALDEN, Ms. ESHOO, Mr. BURGESS, Mr. UPTON, Mr. WELCH, Mr. WALBERG, and Mr. KENNEDY) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To provide for certain extensions with respect to the Medicaid program under title XIX of the Social Security Act, and for other purposes.

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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Empowering Beneficiaries, Ensuring Access, and  
6 Strengthening Accountability Act of 2019”.

1 (b) TABLE OF CONTENTS.—The table of contents for  
2 this Act is as follows:

- 3 Sec. 1. Short title; Table of contents.
- 4 Sec. 2. Extension of Money Follows the Person Rebalancing Demonstration.
- 5 Sec. 3. Clarifying authority of State Medicaid fraud and abuse control units to  
6 investigate and prosecute cases of Medicaid patient abuse and  
7 neglect in any setting.
- 8 Sec. 4. Extension of protection for Medicaid recipients of home and community-  
9 based services against spousal impoverishment.
- 10 Sec. 5. Extension of the Community Mental Health Services Demonstration  
11 Program.
- 12 Sec. 6. Preventing inappropriately low rebates under Medicaid drug rebate pro-  
13 gram.
- 14 Sec. 7. Medicaid Improvement Fund.
- 15 Sec. 8. Determination of budgetary effects.

16 **3 SEC. 2. EXTENSION OF MONEY FOLLOWS THE PERSON RE-**  
17 **4 BALANCING DEMONSTRATION.**

18 (a) IN GENERAL.—

19 (1) FUNDING.—Section 6071(h) of the Deficit  
20 Reduction Act of 2005 (42 U.S.C. 1396a note) is  
21 amended—

22 (A) in paragraph (1)—

23 (i) in subparagraph (E), by striking  
24 “and” at the end;

25 (ii) in subparagraph (F)—

26 (I) by striking “subject to para-  
27 graph (3), 132,000,000” and insert-  
28 ing “\$132,000,000”; and

29 (II) by striking the period at the  
30 end and inserting a semicolon; and

31 (iii) by adding at the end the fol-  
32 lowing new subparagraphs:

1 “(G) \$417,000,000 for fiscal year 2020;

2 “(H) \$450,000,000 for each of fiscal years

3 2021 through 2023; and

4 “(I) \$225,000,000 for fiscal year 2024.”;

5 (B) in paragraph (2)—

6 (i) by striking “Subject to paragraph

7 (3), amounts” and inserting “Amounts”;

8 and

9 (ii) by striking “2021” and inserting

10 “2024”; and

11 (C) by striking paragraph (3).

12 (2) RESEARCH AND EVALUATION.—Section

13 6071(g) of the Deficit Reduction Act of 2005 (42

14 U.S.C. 1396a note) is amended—

15 (A) in paragraph (2), by striking “2016”

16 and inserting “2024”; and

17 (B) in paragraph (3), by inserting “and

18 for each of fiscal years 2019 through 2024,”

19 after “2016.”.

20 (b) CHANGES TO INSTITUTIONAL RESIDENCY PE-

21 RIOD REQUIREMENT.—

22 (1) IN GENERAL.—Section 6071(b)(2) of the

23 Deficit Reduction Act of 2005 (42 U.S.C. 1396a

24 note) is amended—

1 (A) in subparagraph (A)(i), by striking  
2 “90” and inserting “60”; and

3 (B) by striking the flush sentence after  
4 subparagraph (B).

5 (2) EFFECTIVE DATE.—The amendments made  
6 by paragraph (1) shall take effect on the date that  
7 is 30 days after the date of the enactment of this  
8 Act.

9 (c) UPDATES TO STATE APPLICATION REQUIRE-  
10 MENTS.—Section 6071(c) of the Deficit Reduction Act of  
11 2005 (42 U.S.C. 1396a note) is amended—

12 (1) in paragraph (3), by striking “, which shall  
13 include” and all that follows through “2007”;

14 (2) in paragraph (7)—

15 (A) in the paragraph heading, by striking  
16 “REBALANCING” and inserting “EXPENDI-  
17 TURES”;

18 (B) in subparagraph (A), by adding “and”  
19 at the end; and

20 (C) in subparagraph (B)—

21 (i) in clause (i), by striking “and” at  
22 the end;

23 (ii) in clause (ii), by striking the pe-  
24 riod at the end and inserting a semicolon;

25 and

1 (iii) by adding at the end the fol-  
2 lowing:

3 “(iii) include a work plan that describes  
4 for each Federal fiscal year that occurs during  
5 the proposed MFP demonstration project—

6 “(I) the use of grant funds for each  
7 proposed initiative that is designed to ac-  
8 complish the objective described in sub-  
9 section (a)(1), including a funding source  
10 for each activity that is part of each such  
11 proposed initiative;

12 “(II) an evaluation plan that identi-  
13 fies expected results for each such pro-  
14 posed initiative; and

15 “(III) a sustainability plan for compo-  
16 nents of such proposed initiatives that are  
17 intended to improve transitions, which  
18 shall be updated with actual expenditure  
19 information for each Federal fiscal year  
20 that occurs during the MFP demonstration  
21 project; and

22 “(iv) contain assurances that grant funds  
23 used to accomplish the objective described in  
24 subsection (a)(1) shall be obligated not later  
25 than 24 months after the date on which the

1 funds are awarded and shall be expended not  
2 later than 60 months after the date on which  
3 the funds are awarded (unless the Secretary ap-  
4 proves a waiver of either such requirement).”;  
5 and

6 (3) in paragraph (13)—

7 (A) in subparagraph (A), by striking “;  
8 and” and inserting “, and in such manner as  
9 will meet the reporting requirements set forth  
10 for the Transformed Medicaid Statistical Man-  
11 agement Information System (T-MSIS);”;

12 (B) by redesignating subparagraph (B) as  
13 subparagraph (D); and

14 (C) by inserting after subparagraph (A)  
15 the following:

16 “(B) the State shall report on a quarterly  
17 basis on the use of grant funds by distinct ac-  
18 tivity, as described in the approved work plan,  
19 and by specific population as targeted by the  
20 State;

21 “(C) if the State fails to report the infor-  
22 mation required under subparagraph (B), fails  
23 to report such information on a quarterly basis,  
24 or fails to make progress under the approved  
25 work plan, the State shall implement a correc-

1           tive action plan and any lack of progress under  
2           the approved work plan may result in with-  
3           holding of grant funds made available to the  
4           State; and”.

5           (d) FUNDING FOR QUALITY ASSURANCE AND IM-  
6           PROVEMENT; TECHNICAL ASSISTANCE; OVERSIGHT.—  
7           Section 6071(f) of the Deficit Reduction Act of 2005 (42  
8           U.S.C. 1396a note) is amended by striking paragraph (2)  
9           and inserting the following:

10           “(2) FUNDING.—From the amounts appro-  
11           priated under subsection (h)(1) for each of fiscal  
12           years 2019 through 2024, \$1,000,000 shall be avail-  
13           able to the Secretary for each such fiscal year to  
14           carry out this subsection.”.

15           (e) BEST PRACTICES EVALUATION.—Section 6071 of  
16           the Deficit Reduction Act of 2005 (42 U.S.C. 1396a note)  
17           is amended by adding at the end the following:

18           “(i) BEST PRACTICES.—

19           “(1) REPORT.—The Secretary, directly or  
20           through grant or contract, shall submit a report to  
21           the President and Congress not later than Sep-  
22           tember 30, 2020, that contains findings and conclu-  
23           sions on best practices from the State MFP dem-  
24           onstration projects carried out with grants made

1 under this section. The report shall include informa-  
2 tion and analyses with respect to the following:

3 “(A) The most effective State strategies  
4 for transitioning beneficiaries from institutional  
5 to qualified community settings carried out  
6 under the State MFP demonstration projects  
7 and how such strategies may vary for different  
8 types of beneficiaries, such as beneficiaries who  
9 are aged, physically disabled, intellectually or  
10 developmentally disabled, or individuals with se-  
11 rious mental illnesses, and other targeted waiv-  
12 er beneficiary populations.

13 “(B) The most common and the most ef-  
14 fective State uses of grant funds carried out  
15 under the State MFP demonstration projects  
16 for transitioning beneficiaries from institutional  
17 to qualified community settings and improving  
18 health outcomes, including differentiating fund-  
19 ing for current initiatives that are designed for  
20 such purpose and funding for proposed initia-  
21 tives that are designed for such purpose.

22 “(C) The most effective State approaches  
23 carried out under State MFP demonstration  
24 projects for improving person-centered care and  
25 planning.



1           “(D) Identification of program, financing,  
2           and other flexibilities available under the State  
3           MFP demonstration projects, that are not  
4           available under the traditional Medicaid pro-  
5           gram, and which directly contributed to suc-  
6           cessful transitions and improved health out-  
7           comes under the State MFP demonstration  
8           projects.

9           “(E) State strategies and financing mecha-  
10          nisms for effective coordination of housing fi-  
11          nanced or supported under State MFP dem-  
12          onstration projects with local housing authori-  
13          ties and other resources.

14          “(F) Effective State approaches for deliv-  
15          ering Money Follows the Person transition serv-  
16          ices through managed care entities.

17          “(G) Other best practices and effective  
18          transition strategies demonstrated by States  
19          with approved MFP demonstration projects, as  
20          determined by the Secretary.

21          “(H) Identification and analyses of oppor-  
22          tunities and challenges to integrating effective  
23          Money Follows the Person practices and State  
24          strategies into the traditional Medicaid pro-  
25          gram.

1           “(2) COLLABORATION.—In preparing the report  
2           required under this subsection, the Secretary shall  
3           collect and incorporate information from States with  
4           approved MFP demonstration projects and bene-  
5           ficiaries participating in such projects, and providers  
6           participating in such projects.

7           “(3) FUNDING.—From the amounts appro-  
8           priated under subsection (h)(1) for each of fiscal  
9           years 2020 and 2021, not more than \$300,000 shall  
10          be available to the Secretary for each such fiscal  
11          year to carry out this subsection.”.

12          (f) MACPAC REPORT ON QUALIFIED SETTINGS CRI-  
13          TERIA.—Section 6071 of the Deficit Reduction Act of  
14          2005 (42 U.S.C. 1396a note), as amended by subsection  
15          (e), is further amended by adding at the end the following:

16          “(j) MACPAC REPORT.—Prior to the final imple-  
17          mentation date established by the Secretary for the cri-  
18          teria established for home and community-based settings  
19          in section 441.301(c)(4) of title 42, Code of Federal Regu-  
20          lations, as part of final implementation of the Home and  
21          Community Based Services (HCBS) Final Rule published  
22          on January 16, 2014 (79 Fed. Reg. 2947) (referred to  
23          in this subsection as the ‘HCBS final rule’), the Medicaid  
24          and CHIP Payment and Access Commission (MACPAC)  
25          shall submit to Congress a report that—

1           “(1) identifies the types of home and commu-  
2           nity-based settings and associated services that are  
3           available to eligible individuals in both the MFP  
4           demonstration program and sites in compliance with  
5           the HCBS final rule; and

6           “(2) if determined appropriate by the Commis-  
7           sion, recommends policies to align the criteria for a  
8           qualified residence under subsection (b)(6) (as in ef-  
9           fect on October 1, 2017) with the criteria in the  
10          HCBS final rule.”.

11          (g) APPLICATION TO CURRENT PROJECTS.—Not  
12          later than 1 year after the date of the enactment of this  
13          Act, any State with an approved MFP demonstration  
14          project under section 6071 of the Deficit Reduction Act  
15          of 2005 (42 U.S.C. 1396a note) on the date of the enact-  
16          ment of this Act shall submit a revised application to the  
17          Secretary that contains the same information and assur-  
18          ances as are required for any new State applicant under  
19          the amendments made by this section.

1 **SEC. 3. CLARIFYING AUTHORITY OF STATE MEDICAID**  
2 **FRAUD AND ABUSE CONTROL UNITS TO IN-**  
3 **VESTIGATE AND PROSECUTE CASES OF MED-**  
4 **ICAID PATIENT ABUSE AND NEGLECT IN ANY**  
5 **SETTING.**

6 (a) IN GENERAL.—Section 1903(q)(4)(A)(ii) of the  
7 Social Security Act (42 U.S.C. 1396b(q)(4)(A)(ii)) is  
8 amended by inserting after “patients residing in board  
9 and care facilities” the following: “and of patients (who  
10 are receiving medical assistance under the State plan  
11 under this title) in a noninstitutional or other setting”.

12 (b) AVAILABILITY OF FUNDING.—Section 1903(a)(6)  
13 of the Social Security Act (42 U.S.C. 1396b(a)(6)) is  
14 amended, in the matter following subparagraph (B), by  
15 striking “(as found necessary by the Secretary for the  
16 elimination of fraud in the provision and administration  
17 of medical assistance provided under the State plan)”.

18 **SEC. 4. EXTENSION OF PROTECTION FOR MEDICAID RE-**  
19 **CIPIENTS OF HOME AND COMMUNITY-BASED**  
20 **SERVICES AGAINST SPOUSAL IMPOVERISH-**  
21 **MENT.**

22 (a) IN GENERAL.—Section 2404 of Public Law 111–  
23 148 (42 U.S.C. 1396r–5 note) is amended by striking  
24 “September 30, 2019” and inserting “March 31, 2024”.

25 (b) RULE OF CONSTRUCTION.—Nothing in section  
26 2404 of Public Law 111–148 (42 U.S.C. 1396r–5 note),

1 section 1924 of the Social Security Act (42 U.S.C. 1396r–  
2 5), or section 1902(a)(17) of such Act (42 U.S.C.  
3 1396a(a)(17)) shall be construed as prohibiting a State  
4 from applying an income or resource disregard authorized  
5 under section 1902(r)(2) of such Act (42 U.S.C.  
6 1396a(r)(2))—

7 (1) to the income or resources of individuals de-  
8 scribed in section 1902(a)(10)(A)(ii)(VI) of such Act  
9 (42 U.S.C. 1396a(a)(10)(A)(ii)(VI)) (including a  
10 disregard of the income or resources of such individ-  
11 ual’s spouse); or

12 (2) on the basis of an individual’s need for  
13 home and community-based services authorized  
14 under subsection (c), (d), (i), or (k) of section 1915  
15 of such Act (42 U.S.C. 1396n) or under section  
16 1115 of such Act (42 U.S.C. 1315).

17 **SEC. 5. EXTENSION OF THE COMMUNITY MENTAL HEALTH**  
18 **SERVICES DEMONSTRATION PROGRAM.**

19 Section 223(d) of the Protecting Access to Medicare  
20 Act of 2014 (42 U.S.C. 1396a note) is amended—

21 (1) in paragraph (3), by striking “June 30,  
22 2019” and inserting “December 31, 2021”; and

23 (2) in paragraph (7)(B), by striking “December  
24 31, 2021” and inserting “June 30, 2021”.

1 **SEC. 6. PREVENTING INAPPROPRIATELY LOW REBATES**  
2 **UNDER MEDICAID DRUG REBATE PROGRAM.**

3 (a) PROHIBITING MANUFACTURERS FROM BLEND-  
4 ING AVERAGE MANUFACTURER PRICE OF BRAND DRUG  
5 AND ANY AUTHORIZED GENERIC OF SUCH DRUG.—Sec-  
6 tion 1927(k)(1)(C) of the Social Security Act (42 U.S.C.  
7 1396r–8(k)(1)(C)) is amended—

8 (1) in the subparagraph heading, by striking  
9 “INCLUSION” and inserting “EXCLUSION”;

10 (2) by striking “a new drug application” and  
11 inserting “the manufacturer’s new drug applica-  
12 tion”; and

13 (3) by striking “inclusive” and inserting “exclu-  
14 sive”.

15 (b) ELIMINATING MANUFACTURERS FROM DEFINI-  
16 TION OF WHOLESALER.—Section 1927(k)(11) of the So-  
17 cial Security Act (42 U.S.C. 1396r–8(k)(11)) is amend-  
18 ed—

19 (1) by striking “manufacturers,”; and

20 (2) by striking “manufacturer’s and”.

21 (c) EFFECTIVE DATE.—The amendments made by  
22 this section shall apply with respect to covered outpatient  
23 drugs dispensed on or after January 1, 2020.

1 **SEC. 7. MEDICAID IMPROVEMENT FUND.**

2 Section 1941(b)(1) of the Social Security Act (42  
3 U.S.C. 1396w-1(b)(1)) is amended by striking  
4 “\$6,000,000” and inserting “\$45,500,000”.

5 **SEC. 8. DETERMINATION OF BUDGETARY EFFECTS.**

6 The budgetary effects of this Act, for the purpose of  
7 complying with the Statutory Pay-As-You-Go Act of 2010,  
8 shall be determined by reference to the latest statement  
9 titled “Budgetary Effects of PAYGO Legislation” for this  
10 Act, submitted for printing in the Congressional Record  
11 by the Chairman of the House Budget Committee, pro-  
12 vided that such statement has been submitted prior to the  
13 vote on passage.