

117TH CONGRESS
2D SESSION

H. R. 6904

To amend title XXVII of the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to prohibit a group health plan and a health insurance issuer offering group or individual health insurance coverage from reducing contracted rates, or terminating contracts, with health care providers during a public health emergency.

IN THE HOUSE OF REPRESENTATIVES

MARCH 2, 2022

Ms. PORTER (for herself, Ms. TLAIB, and Ms. DELAURO) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Education and Labor, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title XXVII of the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to prohibit a group health plan and a health insurance issuer offering group or individual health insurance coverage from reducing contracted rates, or terminating contracts, with health care providers during a public health emergency.

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 “Patients Before Profits
3 Act of 2022”.

4 **SEC. 2. PROHIBITING A GROUP HEALTH PLAN AND A**
5 **HEALTH INSURANCE ISSUER OFFERING**
6 **GROUP OR INDIVIDUAL HEALTH INSURANCE**
7 **COVERAGE FROM REDUCING CONTRACTED**
8 **RATES, OR TERMINATING CONTRACTS, WITH**
9 **HEALTH CARE PROVIDERS DURING A PUBLIC**
10 **HEALTH EMERGENCY.**

11 (a) PHSA.—Part D of title XXVII of the Public
12 Health Service Act (42 U.S.C. 300gg–111 et seq.) is
13 amended by adding at the end the following new section:
14 **“SEC. 2799A–11. PROHIBITION ON REDUCTION OF RATES**
15 **AND TERMINATION OF CONTRACTS DURING**
16 **PUBLIC HEALTH EMERGENCIES.**

17 “(a) IN GENERAL.—A group health plan and a health
18 insurance issuer offering group or individual health insur-
19 ance coverage may not, with respect to a health care pro-
20 vider located in an emergency area during an emergency
21 period that, as of the day before the date of the beginning
22 of such period, had in effect a contractual relationship for
23 furnishing items and services under such plan or cov-
24 erage—

25 “(1) provide for an amount of reimbursement
26 for any such item or service furnished by such pro-

1 vider during such period that is less than the
2 amount of such reimbursement that would have been
3 payable under such plan or coverage had such item
4 or service been furnished by such provider on such
5 day; or

6 “(2) terminate such relationship during such
7 period;

8 unless such lesser reimbursement or such termination is
9 based on fraud, abuse, or other quality concerns with re-
10 spect to such provider or such provider being placed on
11 the exclusion list maintained by the Inspector General of
12 the Department of Health and Human Services.

13 “(b) DEFINITIONS.—For purposes of this section, an
14 ‘emergency area’ is a geographical area in which, and an
15 ‘emergency period’ is the period during which, there exists
16 a public health emergency declared by the Secretary pur-
17 suant to section 319.”.

18 (b) ERISA.—

19 (1) IN GENERAL.—Subpart B of part 7 of sub-
20 title B of title I of the Employee Retirement Income
21 Security Act of 1974 (29 U.S.C. 1185 et seq.) is
22 amended by adding at the end the following new sec-
23 tion:

1 **“SEC. 726. PROHIBITION ON REDUCTION OF RATES AND**
2 **TERMINATION OF CONTRACTS DURING PUB-**
3 **LIC HEALTH EMERGENCIES.**

4 “(a) IN GENERAL.—A group health plan and a health
5 insurance issuer offering group health insurance coverage
6 may not, with respect to a health care provider located
7 in an emergency area during an emergency period that,
8 as of the day before the date of the beginning of such
9 period, had in effect a contractual relationship for fur-
10 nishing items and services under such plan or coverage—

11 “(1) provide for an amount of reimbursement
12 for any such item or service furnished by such pro-
13 vider during such period that is less than the
14 amount of such reimbursement that would have been
15 payable under such plan or coverage had such item
16 or service been furnished by such provider on such
17 day; or

18 “(2) terminate such relationship during such
19 period;

20 unless such lesser reimbursement or such termination is
21 based on fraud, abuse, or other quality concerns with re-
22 spect to such provider or such provider being placed on
23 the exclusion list maintained by the Inspector General of
24 the Department of Health and Human Services.

25 “(b) DEFINITIONS.—For purposes of this section, an
26 ‘emergency area’ is a geographical area in which, and an

1 ‘emergency period’ is the period during which, there exists
 2 a public health emergency declared by the Secretary pur-
 3 suant to section 319.”.

4 (2) CLERICAL AMENDMENT.—The table of con-
 5 tents in section 1 of the Employee Retirement In-
 6 come Security Act of 1974 is amended by inserting
 7 after the item relating to section 714 the following
 8 new items:

“Sec. 726. Prohibition on reduction of rates and termination of contracts dur-
 ing public health emergencies.”.

9 (c) IRC.—

10 (1) IN GENERAL.—Subchapter B of chapter
 11 100 of the Internal Revenue Code of 1986 is amend-
 12 ed by adding at the end the following new section:

13 **“SEC. 9826. PROHIBITION ON REDUCTION OF RATES AND**
 14 **TERMINATION OF CONTRACTS DURING PUB-**
 15 **LIC HEALTH EMERGENCIES.**

16 “(a) IN GENERAL.—A group health plan may not,
 17 with respect to a health care provider located in an emer-
 18 gency area during an emergency period that, as of the day
 19 before the date of the beginning of such period, had in
 20 effect a contractual relationship for furnishing items and
 21 services under such plan—

22 “(1) provide for an amount of reimbursement
 23 for any such item or service furnished by such pro-
 24 vider during such period that is less than the

1 amount of such reimbursement that would have been
2 payable under such plan had such item or service
3 been furnished by such provider on such day; or

4 “(2) terminate such relationship during such
5 period;

6 unless such lesser reimbursement or such termination is
7 based on fraud, abuse, or other quality concerns with re-
8 spect to such provider or such provider being placed on
9 the exclusion list maintained by the Inspector General of
10 the Department of Health and Human Services.

11 “(b) DEFINITIONS.—For purposes of this section, an
12 ‘emergency area’ is a geographical area in which, and an
13 ‘emergency period’ is the period during which, there exists
14 a public health emergency declared by the Secretary pur-
15 suant to section 319.”.

16 (2) CLERICAL AMENDMENT.—The table of sec-
17 tions for such subchapter is amended by adding at
18 the end the following new items:

“Sec. 9826. Prohibition on reduction of rates and termination of contracts dur-
ing public health emergencies.”.

19 (d) EFFECTIVE DATE.—The amendment made by
20 this section shall apply with respect to public health emer-
21 gencies declared by the Secretary of Health and Human
22 Services on or after January 31, 2020, and items and

- 1 services furnished, and terminations occurring, on or after
- 2 the date of the enactment of this Act.

