

140th Congress
1st Session

H.R.41

To make quality healthcare more Affordable, Accessible, and Achievable for the American people.

IN THE HOUSE OF REPRESENTATIVES

MAY 6, 2021

Mr. MILLER of Jackson (for himself, Mr. TOBY, Mr. HARRIS, Ms. HARRIS-KITE, Mr. DIAZ)
introduced the following bill; which was referred to the Committee on General Legislation

A BILL

To make quality healthcare more Affordable, Accessible, and Achievable for the American people.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

- (a) SHORT TITLE.—This Act may be cited as the “AAAH Act of 2021”, or the “Affordable, Accessible, and Achievable Healthcare Act of 2021”.
- (b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Section 1. Short title; table of contents.

TITLE I—LOWERING HEALTHCARE COSTS

Sec. 101. Establishing a State health insurance affordability and innovation fund.

TITLE II—EXPANDING, INCENTIVIZING, AND IMPROVING MEDICAID

Sec. 201. Expanding access to adult vaccines under Medicaid.

Sec. 202. Reducing the administrative FMAP for nonexpansion States.

Sec. 203. State option to provide 12 months of postpartum Medicaid eligibility.

Sec. 204. Supporting State Medicaid programs through economic downturns.

TITLE III—FAIR MEDICARE PAYMENTS TO RURAL HOSPITALS

Sec. 301. Ensuring fairness in Medicare hospital payments.

TITLE IV—COMMONSENSE COMPETITION AND AND ACCESS TO HEALTH INSURANCE

Sec. 401. Providing small business health insurance across State lines.

Sec. 402. Report and models.

TITLE V—FUNDING AND EFFECTIVE DATE

Sec. 501. Funding and effective date.

TITLE I—LOWERING HEALTHCARE COSTS

SEC. 101. ESTABLISHING A STATE HEALTH INSURANCE AFFORDABILITY AND INNOVATION FUND.

Subtitle D of title I of the Patient Protection and Affordable Care Act ([42 U.S.C. 18021 et seq.](#)) is amended by adding at the end the following:

“PART 6—STATE HEALTH INSURANCE AFFORDABILITY AND INNOVATION FUND

“SEC. 1351. ESTABLISHMENT OF FUND.

“There is hereby established the ‘State Health Insurance Affordability and Innovation Fund’ to be administered by the Secretary of Health and Human Services, acting through the Administrator of the Centers for Medicare & Medicaid Services (referred to in this section as the ‘Administrator’), to provide funding, in accordance with this part, to each of the 50 States and the District of Columbia (each referred to in this section as a ‘State’) beginning on January 1, 2022, for the purposes described in section 1352.

“SEC. 1352. USE OF FUNDS.

“(a) IN GENERAL.—A State shall use the funds allocated to the State under this part for one of the following purposes:

“(1) To provide reinsurance payments to health insurance issuers with respect to individuals enrolled under health insurance coverage (other than through a plan described in subsection (b)) offered by such issuers.

“(2) To provide assistance (other than through payments described in paragraph (1)) to reduce out-of-pocket costs, such as copayments, coinsurance, premiums, and deductibles, of individuals enrolled under qualified health plans offered on the individual market through an Exchange.

“(3) State efforts to streamline health insurance enrollment procedures in order to reduce burdens on consumers and facilitate greater enrollment in health insurance coverage in the individual and small group markets, including automatic

enrollment and reenrollment of, or pre-populated applications for, individuals without health insurance who are eligible for tax credits under section 36B of the Internal Revenue Code of 1986, with the ability to opt out of such enrollment.

“(4) State investment in technology to improve data sharing and collection for the purposes of facilitating greater enrollment in health insurance coverage in such markets.

“(5) Feasibility studies to develop comprehensive and coherent State plan for increasing enrollment in the individual and small group market.

“(b) **EXCLUSION OF CERTAIN GRANDFATHERED AND TRANSITIONAL PLANS.**—For purposes of subsection (a), a plan described in this subsection is the following:

“(1) A grandfathered health plan (as defined in 12 section 1251).

“(2) A plan (commonly referred to as a ‘transitional plan’) continued under the letter issued by the Centers for Medicare & Medicaid Services on November 14, 2013, to the State Insurance Commissioners outlining a transitional policy for coverage in the individual and small group markets to which section 1251 does not apply, and under the extension of the transitional policy for such coverage set forth in the Insurance Standards Bulletin Series guidance issued by the Centers for Medicare & Medicaid Services on March 5, 2014, February 29, 2016, February 13, 2017, April 9, 2018, March 25, 2019, and January 31, 2020, or under any subsequent extensions thereof.

“(3) Student health insurance coverage (as defined in section 147.145 of title 45, Code of Federal Regulations).

“SEC. 1353. STATE ELIGIBILITY AND APPROVAL; DEFAULT SAFEGUARD.

“(a) **ENCOURAGING STATE OPTIONS FOR ALLOCATIONS.**—

“(1) **IN GENERAL.**—To be eligible for an allocation of funds under this part for a year (beginning with 2022), a State shall submit to the Administrator an application at such time (but, in the case of allocations for 2022, not later than 90 days after the date of the enactment of this part and, in the case of allocations for a subsequent year, not later than March 1 of the previous year) and in such form and manner as specified by the Administrator containing—

“(A) a description of how the funds will be used; and

“(B) such other information as the Administrator may require.

“(2) **AUTOMATIC APPROVAL.**—An application so submitted is approved unless the Administrator notifies the State submitting the application, not later than 60 days after the date of the submission of such application, that the application has been denied for not being in compliance with any requirement of this part and of the reason for such denial.

“(3) 5-YEAR APPLICATION APPROVAL.—If an application of a State is approved for a purpose described in section 1352 for a year, such application shall be treated as approved for such purpose for each of the subsequent 4 years.

“(4) REVOCATION OF APPROVAL.—The approval of an application of a State, with respect to a purpose described in section 1352, may be revoked if the State fails to use funds provided to the State under this section for such purpose or otherwise fails to comply with the requirements of this section.

“(b) DEFAULT FEDERAL SAFEGUARD.—

“(1) 2022.—For 2022, in the case of a State that does not submit an application under subsection (a) by the 90-day submission date applicable to such year under subsection (a)(1) and in the case of a State that does submit such an application by such date that is not approved, the Administrator, in consultation with the State insurance commissioner, shall, from the amount calculated under paragraph (4) for such year, carry out the purpose described in paragraph (3) in such State for such year.

“(2) 2023 AND SUBSEQUENT YEARS.—For 2023 or a subsequent year, in the case of a State that does not have in effect an approved application under this section for such year, the Administrator, in consultation with the State insurance commissioner, shall, from the amount calculated under paragraph (4) for such year, carry out the purpose described in paragraph (3) in such State for such year.

“(3) SPECIFIED USE.—The amount described in paragraph (4), with respect to 2022 or a subsequent year, shall be used to carry out the purpose described in section 1352(a)(1) in each State described in paragraph (1) or (2) for such year, as applicable, by providing reinsurance payments to health insurance issuers with respect to attachment range claims (as defined in section 1354(b)(2)), using the dollar amounts specified in subparagraph (B) of such section for such year in an amount equal to, subject to paragraph (5), the percentage (specified for such year by the Secretary under such subparagraph) of the amount of such claims.

“(4) AMOUNT DESCRIBED.—The amount described in this paragraph, with respect to 2022 or a subsequent year, is the amount equal to the total sum of amounts that the Secretary would otherwise estimate under section 1354(b)(2)(A)(i) for such year for each State described in paragraph (1) or (2) for such year, as applicable, if each such State were not so described for such year.

“(5) ADJUSTMENT.—For purposes of this subsection, the Secretary may apply a percentage under paragraph (3) with respect to a year that is less than the percentage otherwise specified in section 1354(b)(2)(B) for such year, if the cost of paying the total eligible attachment range claims for States described in this subsection for such year at such percentage otherwise specified would exceed the amount calculated under paragraph (4) for such year.

“SEC. 1354. ALLOCATIONS.

“(a) APPROPRIATION.—For the purpose of providing allocations to States under subsection (b) and payments under section 1353(b), there is appropriated, out of any money in the Treasury not otherwise appropriated, \$10,000,000,000 for 2022 and each subsequent year.

“(b) ALLOCATIONS.—

“(1) PAYMENT.—

“(A) IN GENERAL.—From amounts appropriated under subsection (a) for a year, the Secretary shall, with respect to a State not described in section 1353(b) for such year and not later than the date specified under subparagraph (B) for such year, allocate for such State the amount determined for such State and year under paragraph (2).

“(B) SPECIFIED DATE.—For purposes of subparagraph (A), the date specified in this subparagraph is—

“(i) for 2022, the date that is 45 days after the date of the enactment of this part; and

“(ii) for 2023 or a subsequent year, January 1 of the respective year.

“(C) NOTIFICATIONS OF ALLOCATION

AMOUNTS.—For 2023 and each subsequent year, the Secretary shall notify each State of the amount determined for such State under paragraph (2) for such year by not later than January 1 of the previous year.

“(2) ALLOCATION AMOUNT DETERMINATIONS.—

“(A) IN GENERAL.—For purposes of paragraph (1), the amount determined under this paragraph for a year for a State described in paragraph (1)(A) for such year is the amount equal to—

“(i) the amount that the Secretary estimates would be expended under this part for such year on attachment range claims of individuals residing in such State if such State used such funds only for the purpose described in paragraph (1) of section 1352(a) at the dollar amounts and percentage specified under subparagraph (B) for such year; minus

“(ii) the amount, if any, by which the Secretary determines—

“(I) the estimated amount of premium tax credits under section 36B of the Internal Revenue Code of 1986 that would be attributable to individuals residing in such State for such year without application of this part; exceeds

“(II) the estimated amount of premium tax credits under section 36B of the Internal Revenue Code of 1986 that would be attributable to individuals residing in such State

for such year if such State were a State described in section 1353(b) for such year. For purposes of the previous sentence and section 1353(b)(3), the term ‘attachment range claims’ means, with respect to an individual, the claims for such individual that exceed a dollar amount specified by the Secretary for a year, but do not exceed a ceiling dollar amount specified by the Secretary for such year, under sub- paragraph (B).

“(B) SPECIFICATIONS.—For purposes of subparagraph (A) and section 1353(b)(3), the Secretary shall determine the dollar amounts and the percentage to be specified under this subparagraph for a year in a manner to ensure that the total amount of expenditures under this part for such year is estimated to equal the total amount appropriated for such year under subsection (a) if such expenditures were used solely for the purpose described in paragraph (1) of section 1352(a) for attachment range claims at the dollar amounts and percentage so specified for such year.

“(3) AVAILABILITY.—Funds allocated to a State under this subsection for a year shall remain available through the end of the subsequent year.”.

TITLE II—EXPANDING, INCENTIVIZING, AND IMPROVING MEDICAID

SEC. 201. IMPROVING ACCESS TO ADULT VACCINES UNDER MEDICAID.

(a) **REQUIRING MEDICAID PLANS TO COVER ADULT VACCINATIONS.**—Section 1902(a)(10)(A) of the Social Security Act ([42 U.S.C. 1396a\(a\)\(10\)\(A\)](#)) is amended in the matter preceding clause (i) by inserting “(13)(B),” after “(5),”.

(b) **NO COST-SHARING FOR VACCINATIONS.**—

(1) **GENERAL COST-SHARING LIMITATIONS.**—Section 1916 of the Social Security Act ([42 U.S.C. 1396o](#)) is amended—

(A) in subsection (a)(2)—

(i) in subparagraph (F), by striking “, or” and inserting a comma;

(ii) in subparagraph (G), by striking “; and” and inserting “, or”;
and

(iii) by adding at the end the following new subparagraph:

“(H) vaccines described in section 1905(a)(13)(B) (and the administration of such vaccines); and”;

(B) in subsection (b)(2)—

- (i) in subparagraph (F), by striking “, or” and inserting a comma;
- (ii) in subparagraph (G), by striking “; and” and inserting “, or”;
- and
- (iii) by adding at the end the following new subparagraph:

“(H) vaccines described in section 1905(a)(13)(B) (and the administration of such vaccines); and”.

(2) APPLICATION TO ALTERNATIVE COST-SHARING.—Section 1916A(b)(3)(B) of the Social Security Act ([42 U.S.C. 1396o–1\(b\)\(3\)\(B\)](#)) is amended by adding at the end the following new clause:

“(xii) Vaccines described in section 1905(a)(13)(B) (and the administration of such vaccines).”.

(c) ENHANCED FMAP FOR ADULT VACCINES.—Section 1905(b) of the Social Security Act ([42 U.S.C. 1396d\(b\)](#)) is amended—

- (1) by striking “and (5)” and inserting “(5)”;
- (2) by striking “services and vaccines described in subparagraphs (A) and (B) of subsection (a)(13), and prohibits cost-sharing for such services and vaccines” and inserting “services described in subsection (a)(13)(A), and prohibits cost-sharing for such services”;
- (3) by striking “medical assistance for such services and vaccines” and inserting “medical assistance for such services”; and
- (4) by inserting “, and (6) with respect to medical assistance for vaccines described in subsection (a)(13)(B), the Federal medical assistance percentage, as determined under this subsection and subsection (y) (without regard to paragraph (1)(C) of such subsection), shall be increased by 1 percentage point” before the first period.

SEC. 202. REDUCING THE ADMINISTRATIVE FMAP FOR NONEXPANSION STATES.

Section 1903 of the Social Security Act of 1935 ([42 U.S.C. 1396b](#)) is amended—

- (1) in subsection (a)(7), by inserting “subsection (cc) and” before “section 1919(g)(3)(B)”;
- and
- (2) by adding at the end the following new subsection:

“(cc) REDUCTION OF FEDERAL PAYMENTS FOR CERTAIN ADMINISTRATIVE COSTS OF NONEXPANSION STATES.—

“(1) IN GENERAL.—In the case of a State that does not provide under the State plan of such State (or waiver of such plan) for making medical assistance available in accordance with section 1902(k)(1) to all individuals described in section 1902(a)(10)(i)(VIII) for a calendar quarter beginning on or after October 1, 2022, the Secretary may reduce the percentage specified in subsection (a)(7) for amounts described in such subsection expended during such quarter by such State by the number of percentage points specified in paragraph (2) for such quarter.

“(2) AMOUNT OF REDUCTION.—For purposes of paragraph (1), the number of percentage points specified in this paragraph for a calendar quarter is the following:

“(A) For the calendar quarter beginning on October 1, 2022, 0.5.

“(B) For a calendar quarter beginning on or after January 1, 2023, and ending before July 1, 2027, the number of percentage points specified under this paragraph for the previous quarter, plus 0.5.

“(C) For a calendar quarter beginning on or after July 1, 2027, 10.

“(3) DEFINITION.—For purposes of this subsection, the term ‘State’ means a State that is one of the 50 States or the District of Columbia.”.

SEC. 203. STATE OPTION TO PROVIDE 12 MONTHS OF POSTPARTUM MEDICAID ELIGIBILITY.

(a) OPTION TO PROVIDE CONTINUOUS MEDICAID AND CHIP COVERAGE FOR PREGNANT AND POSTPARTUM WOMEN.—

(1) MEDICAID.—Title XIX of the Social Security Act ([42 U.S.C. 1396 et seq.](#)) is amended—

(A) in section 1902(l)(1)(A), by inserting “(or, at the option of the State, 365-day period)” after “60-day period”;

(B) in section 1902(e)(6), by inserting “(or, at the option of the State, 365-day period)” after “60-day period”;

(C) in section 1903(v)(4)(A)(i), by inserting “(or, at the option of the State, 365-day period)” after “60-day period”; and

(D) in section 1905(a), in the 4th sentence in the matter following paragraph (30), by inserting “(or, at the option of the State, 365-day period)” after “60-day period”.

(2) CHIP.—Section 2112 of the Social Security Act ([42 U.S.C. 1397ll](#)) is amended by inserting “(or, at the option of the State, 365-day period)” after “60-day period” each place it appears.

(b) REQUIRING FULL BENEFITS FOR PREGNANT AND POSTPARTUM WOMEN.—

(1) MEDICAID.—

(A) IN GENERAL.—Paragraph (5) of section 1902(e) of the Social Security Act ([24 U.S.C. 1396a\(e\)](#)) is amended to read as follows:

“(5) Any woman who is eligible for medical assistance under the State plan or a waiver of such plan and who is, or who while so eligible becomes, pregnant, shall continue to be eligible under the plan or waiver for medical assistance through the end of the month in which the 60-day period (or, at the option of the State, 365-day period) (beginning on the last day of her pregnancy) ends, regardless of the basis for the woman's eligibility for medical assistance, including if the woman's eligibility for medical assistance is on the basis of being pregnant.”.

(B) CONFORMING AMENDMENT.—Section 1902(a)(10) of the Social Security Act ([42 U.S.C. 1396a\(a\)\(10\)](#)) is amended in the matter following subparagraph (G) by striking “(VII) the medical assistance” and all that follows through “complicate pregnancy,”.

(2) CHIP.—Section 2107(e)(1) of the Social Security Act ([42 U.S.C. 1397gg\(e\)\(1\)](#)) is amended—

(A) by redesignating subparagraphs (H) through (S) as subparagraphs (I) through (T), respectively; and

(B) by inserting after subparagraph (G), the following:

“(H) Section 1902(e)(5) (requiring 60-day (or, at the option of the State, 365-day) continuous coverage for pregnant and postpartum women).”.

(c) MAINTENANCE OF EFFORT.—

(1) MEDICAID.—Section 1902 of the Social Security Act ([42 U.S.C. 1396a](#)) is amended—

(A) in paragraph (74), by striking “subsection (gg); and” and inserting “subsections (gg) and (tt);”; and

(B) by adding at the end the following new subsection:

“(tt) MAINTENANCE OF EFFORT RELATED TO LOW-INCOME PREGNANT WOMEN.—For calendar quarters beginning on or after the effective date described in section 204(d) of the Health Care Improvement Act of 2021, and before January 1, 2023, no Federal payment shall be made to a State under section 1903(a) for amounts expended under a State plan under this title or a waiver of such plan if the State—

“(1) has in effect under such plan eligibility standards, methodologies, or procedures for individuals described in subsection (l)(1) who are eligible for medical assistance under the State plan or waiver under subsection (a)(10)(A)(ii)(IX) that are more restrictive than the eligibility standards,

methodologies, or procedures, respectively, for such individuals under such plan or waiver that are in effect on the date of the enactment of this subsection; or
“(2) provides medical assistance to individuals described in subsection (1)(1) who are eligible for medical assistance under such plan or waiver under subsection (a)(10)(A)(ii)(IX) at a level that is less than the level at which the State provides such assistance to such individuals under such plan or waiver on the date of the enactment of this subsection.”.

- (2) CHIP.—Section 2112 of the Social Security Act ([42 U.S.C. 1397II](#)), as amended by subsection (b), is further amended by adding at the end the following subsection:

“(g) MAINTENANCE OF EFFORT.—For calendar quarters beginning on or after the effective date described in section 204(d) of the Health Care Improvement Act of 2021, and before January 1, 2023, no payment may be made under section 2105(a) with respect to a State child health plan if the State—

“(1) has in effect under such plan eligibility standards, methodologies, or procedures for targeted low-income pregnant women that are more restrictive than the eligibility standards, methodologies, or procedures, respectively, under such plan that are in effect on the date of the enactment of this subsection; or
“(2) provides pregnancy-related assistance to targeted low-income pregnant women under such plan at a level that is less than the level at which the State provides such assistance to such women under such plan on the date of the enactment of this subsection.”.

(d) EFFECTIVE DATE.—

- (1) IN GENERAL.—Except as provided under paragraph (2), the amendments made by subsections (a) and (b) shall take effect on (and the effective date described in this subsection shall be) the first day of the first calendar year that begins after the last day of the emergency period described in section 1135(g)(1)(B) of the Social Security Act ([42 U.S.C. 1320b–5\(g\)\(1\)\(B\)](#)).
- (2) EXTENSION OF EFFECTIVE DATE FOR STATE LAW AMENDMENT.—In the case of a State plan under title XIX or State child health plan under title XXI of the Social Security Act ([42 U.S.C. 1396 et seq.](#); [42 U.S.C. 1397aa et seq.](#)) which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the respective plan to meet the additional requirement imposed by the amendments made by subsection (b), the respective plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet such applicable additional requirement before the first day of the first calendar quarter

beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session is considered to be a separate regular session of the State legislature.

SEC. 204. SUPPORTING STATE MEDICAID PROGRAMS THROUGH ECONOMIC DOWNTURNS.

(a) IN GENERAL.—Section 1905 of the Social Security Act ([42 U.S.C. 1396d](#)) is amended—

- (1) in subsection (b), by striking “and (ff)” and inserting “(ff), and (hh)”; and
- (2) by adding at the end the following new subsection:

“(hh) INCREASED FMAP DURING ECONOMIC DOWNTURNS.—

“(1) IN GENERAL.—If a fiscal quarter that begins on or after January 1, 2021, is an economic downturn quarter (as defined in paragraph (2)) with respect to a State, then the Federal medical assistance percentage determined for each State for such quarter under subsection (b) shall be equal to the percentage determined for the State and quarter under paragraph (3).

“(2) ECONOMIC DOWNTURN QUARTER.—

“(A) IN GENERAL.—

“(i) IN GENERAL.—In this subsection, the term ‘economic downturn quarter’ means, with respect to a State, a fiscal quarter during which the State’s unemployment rate for the quarter exceeds the percentage determined for the State and quarter under clause (ii).

“(ii) THRESHOLD PERCENTAGE.—The percentage determined under this clause for a State and fiscal quarter is the percentage equal to the lower of—

“(I) the State unemployment rate at the 20th percentile of the distribution of the State’s quarterly unemployment rates for the 60-quarter period preceding the quarter involved, increased by 1 percentage point; and

“(II) the State’s average quarterly unemployment rate for the 12-quarter period preceding the quarter involved, increased by 1 percentage point.

“(B) UNEMPLOYMENT DATA.—

“(i) IN GENERAL.—Except as provided in clause (ii), for purposes of determining unemployment rates for a State and a quarter under this paragraph, the Secretary shall use data from the

Local Area Unemployment Statistics from the Bureau of Labor Statistics.

“(ii) APPLICATION TO CERTAIN TERRITORIES.—In the case of the Virgin Islands, Guam, the Northern Mariana Islands, American Samoa, or any other jurisdiction for which suitable data from the Local Area Unemployment Statistics from the Bureau of Labor Statistics are unavailable, the Secretary shall use data from the U-3 unemployment measure of the Bureau of Labor Statistics to make any necessary determinations under subparagraph (A).

“(3) INCREASED FMAP DURING ECONOMIC DOWNTURN QUARTER.—

“(A) IN GENERAL.—During a fiscal quarter that is an economic downturn quarter with respect to a State, the Federal medical assistance percentage for the State and quarter determined under subsection (b) shall be equal to—

“(i) the Federal medical assistance percentage determined for the State and quarter under subsection (b) without regard to this subsection; increased by

“(ii) the number of percentage points (rounded to the nearest tenth of a percentage point) equal to the product of—

“(I) the number of percentage points (rounded to the nearest tenth of a percentage point) by which the unemployment rate for the State and quarter exceeds the percentage determined for the State and quarter under paragraph (2)(A)(ii); and

“(II) 4.8.

“(B) RULES OF APPLICATION.—The following rules shall apply with respect to the Federal medical assistance percentage determined for a State and an economic downturn quarter under this subsection:

“(i) SCOPE OF APPLICATION.—Such Federal medical assistance percentage shall not apply for purposes of—

“(I) disproportionate share hospital payments described in section 1923;

“(II) payments under part D of title IV; or

“(III) any payments under this title that are based on a Federal medical assistance percentage determined for a State under subsection (aa) (but only to the extent that such Federal medical assistance percentage is higher than the economic recovery FMAP).

“(ii) LIMITATION.—In no case shall—

“(I) the Federal medical assistance percentage determined for a State and quarter pursuant to this subsection exceed 95 percent; or

“(II) any increase to the Federal medical assistance percentage determined for a State and quarter pursuant to this subsection result in the application of a Federal medical assistance percentage that exceeds 95 percent.

“(iii) APPLICATION TO CHIP.—Notwithstanding the first sentence of section 2105(b), the application of this subsection may result in the enhanced FMAP of a State for a fiscal year under such section exceeding 85 percent, but in no case may the application of this subsection before application of the second sentence of such section result in the enhanced FMAP of the State exceeding 95 percent.

“(4) ADVANCE PAYMENT; RETROSPECTIVE ADJUSTMENT.—

“(A) IN GENERAL.—Prior to the beginning of the second fiscal quarter that begins after the date of enactment of this subsection, and each subsequent fiscal quarter, the Secretary shall, with respect to each State—

“(i) make an initial determination, based on the projections made for the State and quarter under subparagraph (B), as to—

“(I) whether the application of this subsection is expected to result in the application of a higher Federal medical assistance percentage for the State and quarter than the percentage that would otherwise apply without regard to this subsection; and

“(II) if the application of this subsection is expected to result in such a higher Federal medical assistance percentage for the State and quarter, what such higher percentage is expected to be; and

“(ii) if the Secretary determines under clause (i) that the application of this subsection is expected to result in the application of a higher Federal medical assistance percentage for the State and quarter than the percentage that would otherwise apply without regard to this subsection—

“(I) apply such higher Federal medical assistance percentage of the State for purposes of making payments to the State for amounts expended during such quarter as medical assistance under the State plan; and

“(II) take into account such higher Federal medical assistance percentage of the State for purposes of

calculating the enhanced FMAP for the State and quarter under section 2105(b).

“(B) PROJECTION OF STATE UNEMPLOYMENT RATES.—Prior to the beginning of the second fiscal quarter that begins after the date of enactment of this subsection, and each subsequent fiscal quarter, the Secretary, acting through the Chief Actuary of the Centers for Medicare & Medicaid Services, shall, using the most recently available data described in paragraph (2)(B), make projections with respect to—

“(i) the unemployment rates for each State for such quarter;

“(ii) the threshold percentages described in paragraph (2)(A)(ii) for each State for such quarter; and

“(iii) the national unemployment rate for such quarter.

“(C) RETROSPECTIVE ADJUSTMENT.—As soon as practicable after final unemployment data becomes available for a fiscal quarter for which the Secretary made an initial determination under this paragraph, the Secretary shall, with respect to each State—

“(i) make a final determination with respect to the application of this subsection for purposes of determining the Federal medical assistance percentage and enhanced FMAP of the State for the quarter; and

“(ii) in accordance with section 1903(d)(2) and section 2105(e), reduce or increase the amount payable to the State under section 1903(a) or section 2105 for a subsequent fiscal quarter to the extent of any overpayment or underpayment under either such section which the Secretary determines was made as a result of an incorrect initial determination under subparagraph (A)(i) with respect to the application of this subsection for purposes of determining the Federal medical assistance percentage and enhanced FMAP of the State for such prior fiscal quarter.

“(5) RETROSPECTIVE APPLICATION OF OVER-THE-LIMIT FMAP INCREASES.—

“(A) IN GENERAL.—If a State has excess percentage points with respect to an economic downturn quarter and an applicable FMAP (as determined under subparagraph (B)), the State may elect to apply such excess percentage points to increase such applicable FMAP for one or more quarters during the look-back period for the State and economic downturn quarter in accordance with this paragraph.

“(B) EXCESS PERCENTAGE POINTS.—For purposes of this paragraph, the number of excess percentage points for a State, economic downturn

quarter, and an applicable FMAP shall be equal to the number of percentage points by which—

“(i) the applicable FMAP for the State and quarter (after application of paragraph (3) but without regard to subparagraph (B)(ii) of such paragraph); exceeds

“(ii) 95 percent.

“(C) EFFECT OF APPLICATION OF EXCESS PERCENTAGE POINTS.—If a State elects to apply excess percentage points to an applicable FMAP to a quarter during a look-back period under this paragraph, the Secretary shall determine the additional amount of payment under section 1903(a) to which the State would have been entitled for such quarter if the applicable FMAP (as so increased) had been in effect for such quarter, and shall treat such additional amount as an underpayment for such quarter.

“(D) DISTRIBUTION OF EXCESS PERCENTAGE POINTS.—A State that has excess percentage points with respect to an economic downturn quarter and applicable FMAP may elect to divide such points among more than 1 quarter during the look-back period for such State and quarter provided that no excess percentage point (or fraction of an excess percentage point) is applied to the applicable FMAP of more than 1 quarter.

“(E) LIMITATIONS.—

“(i) NO INCREASES OVER 100 PERCENT.—A State may not increase an applicable FMAP for any quarter during a look-back period under this paragraph if such increase would result in the applicable FMAP for such quarter exceeding 100 percent.

“(ii) SCOPE OF APPLICATION.—Any increase to an applicable FMAP of a State for a fiscal quarter under this paragraph—

“(I) shall only apply with respect to payments for amounts expended by the State for medical assistance for services furnished during such quarter to which such applicable FMAP is applicable; and

“(II) shall not apply with respect to payments described in paragraph (3)(B)(i).

“(F) DEFINITIONS.—In this paragraph:

“(i) APPLICABLE FMAP.—The term ‘applicable FMAP’ means, with respect to a State and fiscal quarter—

“(I) the Federal medical assistance percentage determined for the State and quarter under subsection (b);

“(II) the Federal medical assistance percentage applicable under subsection (y);

“(III) the Federal medical assistance percentage applicable under subsection (z)(2);

“(IV) the Federal medical assistance percentage determined for the State and quarter under subsection (ff); or

“(V) the enhanced FMAP determined for the State and quarter under section 2105(b).

“(ii) LOOK-BACK PERIOD.—The term ‘look-back period’ means, with respect to a State and a fiscal quarter that is an economic downturn quarter for the State, the period of 4 fiscal quarters that ends with the fourth quarter which precedes the most recent fiscal quarters that was not an economic downturn quarter for the State.

“(6) REQUIREMENT FOR ALL STATES.—This subsection shall not apply to a State with respect to a fiscal quarter, if—

“(A) eligibility standards, methodologies, or procedures under the State plan or a waiver of such plan are more restrictive during such quarter than the eligibility standards, methodologies, or procedures, respectively, under such plan (or waiver) as in effect on the last day of the most recent fiscal quarter that was not an economic downturn quarter for the State;

“(B) the amount of any premium imposed by the State pursuant to section 1916 or 1916A during such quarter, with respect to an individual enrolled under such plan (or waiver), exceeds the amount of such premium as of the date described in subparagraph (A); or

“(C) the State fails to provide that an individual who is enrolled for benefits under such plan (or waiver) as of the date described in subparagraph (A) or enrolls for benefits under such plan (or waiver) during the period beginning with such date and ending with the day before the first day of the next quarter that is not an economic downturn quarter for the State shall be treated as eligible for such benefits for not less than 12 months after such date or (if later) the date that such individual so enrolls unless the individual requests a voluntary termination of eligibility or the individual ceases to be a resident of the State.”.

(b) EXCLUSION OF ECONOMIC DOWNTURN FMAP INCREASES FROM TERRITORIAL CAPS; SPECIAL RULE FOR CHIP ALLOTMENTS.—

(1) EXCLUSION FROM TERRITORIAL CAPS.—Section 1108 of the Social Security Act ([42 U.S.C. 1308](#)) is amended—

(A) in subsection (f), in the matter preceding paragraph (1), by striking “subsections (g) and (h)” and inserting “subsections (g), (h), and (i)”; and
(B) by adding at the end the following:

“(i) EXCLUSION FROM CAPS OF AMOUNTS ATTRIBUTABLE TO ECONOMIC DOWNTURN FMAP.—Any payment made to a territory for a fiscal year in which the Federal medical assistance percentage for the territory is determined under section 1905(hh) shall not be taken into account for purposes of applying payment limits under subsections (f) and (g) to the extent that such payment exceeds the amount of the payment that would have been made to the territory for the year if the Federal medical assistance percentage for the territory had been determined without regard to such section.”.

(2) CHIP ALLOTMENTS.—Section 2104(m) of the Social Security Act ([42 U.S.C. 1397dd\(m\)](#)) is amended—

(A) in paragraph (2)(B), in the matter preceding clause (i), by striking “paragraphs (5) and (7)” and inserting “paragraphs (5), (7), and (12)”; and
(B) by adding at the end the following new paragraph:

“(12) SPECIAL RULE FOR ADJUSTING ALLOTMENTS DURING FISCAL YEARS WITH ECONOMIC DOWNTURN QUARTERS.—

“(A) IN GENERAL.—If a fiscal quarter is determined under section 1905(hh) to be an economic downturn quarter with respect to a State then, as soon as practicable after such determination, the Secretary shall increase the allotment for the State and the fiscal year in which such fiscal quarter occurs in accordance with subparagraph (B).

“(B) AMOUNT OF INCREASE.—

“(i) IN GENERAL.—The amount of an increase to the allotment of a State described in subparagraph (A) for a fiscal year shall be equal to the amount by which Federal payments made to the State for the preceding fiscal year under this title would have been increased (without regard to whether such payments would exceed the amount of the State’s allotment for such preceding fiscal year) if the enhanced FMAP determined for the State for such preceding fiscal year had been increased to the same extent that the State’s enhanced FMAP for the fiscal year involved is expected to be increased as a result of the application of section 1905(hh) relative

to the enhanced FMAP that would apply to the State for the fiscal year involved without the application of such section.

“(ii) INCLUSION OF PROJECTED INCREASES.—In increasing the allotment of a State for a fiscal year under this paragraph, the Secretary may base the calculation of such increase on projections made by the Secretary with respect to—

“(I) the number of fiscal quarters during such fiscal year that will be economic downturn quarters; and

“(II) the effect that the application of section 1905(hh) is expected to have on the enhanced FMAP of the State for such fiscal year.

“(C) DISREGARD OF INCREASED PAYMENTS FOR PURPOSES OF FUTURE ALLOTMENTS.—Any Federal payment made to a State under this title for a fiscal year in which the Federal medical assistance percentage for the State is determined under section 1905(hh) shall be disregarded when determining the allotment of the State for any subsequent year, including for purposes of applying this paragraph, to the extent that such payment exceeds the amount of the payment that would have been made to the State for the year if the Federal medical assistance percentage for the State and year had been determined without regard to such section.”.

TITLE III—FAIR MEDICARE PAYMENTS TO RURAL HOSPITALS

SEC. 301. ENSURING FAIRNESS IN MEDICARE HOSPITAL PAYMENTS.

(a) HOSPITAL INPATIENT SERVICES.—

(1) IN GENERAL.—Section 1886(d)(3)(E) of the Social Security Act ([42 U.S.C. 1395www\(d\)\(3\)\(E\)](#)) is amended—

(A) in clause (i), in the first sentence, by striking “or (iii)” and inserting “, (iii), or (iv)”; and

(B) by adding at the end the following new clause:

“(iv) AREA WAGE INDEX FLOOR.—

“(I) IN GENERAL.—For discharges occurring on or after October 1, 2021, the area wage index applicable under this subparagraph to any hospital which is not located in a frontier State (as defined in clause (iii)(II)) may not be less than 0.85.

“(II) WAIVING BUDGET NEUTRALITY.—Pursuant to the fifth sentence of clause (i), this clause shall not be applied in a budget neutral manner.”.

(2) WAIVING BUDGET NEUTRALITY.—

(A) TECHNICAL AMENDATORY CORRECTION.—Section 10324(a)(2) of Public Law 111–148 is amended by striking “third sentence” and inserting “fifth sentence”.

(B) WAIVER.—Section 1886(d)(3)(E)(i) of the Social Security Act ([42 U.S.C. 1395ww\(d\)\(3\)\(E\)\(i\)](#)) is amended, in the fifth sentence—

(i) by striking “and the amendments” and inserting “, the amendments”; and

(ii) by inserting “, and the amendments made by section 401(a)(1) of the Affordable, Accessible, and Achievable Healthcare Act of 2021” after “Care Act”.

(b) HOSPITAL OUTPATIENT DEPARTMENT SERVICES.—Section 1833(t) of the Social Security Act ([42 U.S.C. 1395l\(t\)](#)), is amended—

(1) in paragraph (2)(D), by striking “(19), the Secretary” and inserting “(19) and paragraph (23), the Secretary”; and

(2) by adding at the end the following new paragraph:

“(23) FLOOR ON AREA WAGE ADJUSTMENT FACTOR FOR HOSPITAL OUTPATIENT DEPARTMENT SERVICES.—With respect to covered OPD services furnished on or after January 1, 2021, the area wage adjustment factor applicable under the payment system established under this subsection to any hospital outpatient department which is not located in a frontier State (as defined in section 1886(d)(3)(E)(iii)(II)) may not be less than 0.85. The preceding sentence shall not be implemented in a budget neutral manner.”.

TITLE IV—COMMONSENSE COMPETITION AND ACCESS TO HEALTH INSURANCE

SEC. 401. PROVIDING SMALL BUSINESS HEALTH INSURANCE ACROSS STATE LINES.

Section 1333(a)(1)(A) of the Patient Protection and Affordable Care Act ([42 U.S.C. 18053\(a\)\(1\)\(A\)](#)) is amended by inserting “and small group markets” after “individual markets”.

SEC. 402. REPORT AND MODELS.

Section 1333 of the Patient Protection and Affordable Care Act ([42 U.S.C. 18053](#)) is amended by adding at the end the following:

“(b) NAIC REPORT AND MODELS.—

“(1) IN GENERAL.—Not later than December 31, 2021, the Secretary shall request that the National Association of Insurance Commissioners submit to the Secretary a report concerning health plans provided for under this section. Such report shall include—

“(A) a description of the challenges that States would face by permitting issuers of qualified health plans to offer such plans in States other than those States where such plan was originally written or issued;

“(B) an assessment of how an out-of-State insurer would go about building an adequate provider network;

“(C) a description of how such challenges could be lessened without weakening the enforcement of laws and regulations described in subsection (a)(1)(B)(i) in any State that is included in a compact under this section;

“(D) a description of the commonalities that exist in State laws and opportunities to allow issuers of qualified health plans to offer such plans in States other than those States where such plan was originally written or issued; and

“(E) models to be used by States to establish and enter into interstate health care choice compacts under this section, which—

“(i) may include model legislation for use by States to enact laws to enter into such compacts;

“(ii) shall identify how States would continue to enforce, and not weaken, the laws and regulations described in subsection (a)(1)(B)(i) in any State that is included in such compact; and

“(iii) shall identify how such models would ensure that there is no violation of the conditions for Secretarial approval under subsection (a)(3).

“(2) OTHER ORGANIZATIONS AND ENTITIES.— In making the request under paragraph (1), the Secretary may also request that the National Association of Insurance Commissioners gather concepts for inclusion in the report under such paragraph from organizations and entities that have experience in offering qualified health plans in States in which such plans were not originally issued.”.

TITLE V—FUNDING AND EFFECTIVE DATE

SEC. 501. FUNDING AND EFFECTIVE DATE.

- (a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this Act.
- (b) EFFECTIVE DATE.—Unless otherwise specified, the provisions in this Act shall go into effect on January 1, 2022.

Meta Note: Partially based off of the [Healthcare Improvement Act of 2021](#)