

116TH CONGRESS
2D SESSION

S. 4469

To ensure coverage of a COVID–19 vaccine and treatment.

IN THE SENATE OF THE UNITED STATES

AUGUST 6, 2020

Ms. SMITH (for herself, Mr. BENNET, and Ms. HARRIS) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To ensure coverage of a COVID–19 vaccine and treatment.

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 “COVID–19 Treatment Coverage Act”.

6 (b) TABLE OF CONTENTS.—The table of contents of
7 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Coverage at no cost sharing of COVID–19 vaccine and treatment under Medicaid program.

Sec. 3. Coverage of treatment and vaccines at no cost sharing for the uninsured.

Sec. 4. Coverage of COVID–19 treatment at no cost sharing under Medicare program.

Sec. 5. Coverage of COVID–19 treatment at no cost sharing under Medicare Advantage program.

- Sec. 6. Coverage of COVID–19 Drugs at no cost sharing under Medicare prescription drug plans.
- Sec. 7. Coverage of COVID–19 treatment at no cost sharing under private health insurance.
- Sec. 8. Coverage of COVID–19 treatment at no cost sharing for TRICARE recipients.
- Sec. 9. Coverage of COVID–19 treatment at no cost sharing for veterans.
- Sec. 10. Coverage of COVID–19 treatment at no cost sharing for Federal civilian employees.
- Sec. 11. Coverage of COVID–19 treatment at no cost sharing under Indian Health Service.
- Sec. 12. Sense of Congress related to surprise medical bills.
- Sec. 13. Special enrollment period; outreach and enrollment activities.

1 SEC. 2. COVERAGE AT NO COST SHARING OF COVID–19 VAC-
2 CINE AND TREATMENT UNDER MEDICAID
3 PROGRAM.

4 (a) MEDICAID.—

5 (1) IN GENERAL.—Section 1905(a)(4) of the
6 Social Security Act (42 U.S.C. 1396d(a)(4)) is
7 amended—

8 (A) by striking “and (D)” and inserting
9 “(D)”; and

10 (B) by striking the semicolon at the end
11 and inserting “; (E) during the portion of the
12 emergency period described in paragraph (1)(B)
13 of section 1135(g) beginning on the date of the
14 enactment of the COVID–19 Treatment Cov-
15 erage Act, a COVID–19 vaccine licensed under
16 section 351 of the Public Health Service Act, or
17 approved or authorized under section 505 or
18 564 of the Federal Food, Drug, and Cosmetic
19 Act, and administration of the vaccine; (F) dur-

ing such portion of the emergency period described in paragraph (1)(B) of section 1135(g), items or services for the prevention or treatment of COVID–19, including drugs approved or authorized under such section 505 or such section 564 or, without regard to the requirements of section 1902(a)(10)(B) (relating to comparability), in the case of an individual who is diagnosed with or presumed to have COVID–19, during such portion of such emergency period during which such individual is infected (or presumed infected) with COVID–19, the treatment of a condition that may complicate the treatment of COVID–19;”.

(2) PROHIBITION OF COST SHARING.—

(A) IN GENERAL.—Subsections (a)(2) and (b)(2) of section 1916 of the Social Security Act (42 U.S.C. 1396o) are each amended—

(i) in subparagraph (F), by striking “or” at the end;

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

(iii) by adding at the end the following subparagraphs:

1 “(H) during the portion of the emergency
2 period described in paragraph (1)(B) of section
3 1135(g) beginning on the date of the enactment
4 of this subparagraph, a COVID–19 vaccine li-
5 censed under section 351 of the Public Health
6 Service Act, or approved or authorized under
7 section 505 or 564 of the Federal Food, Drug,
8 and Cosmetic Act, and the administration of
9 such vaccine, or

10 “(I) during such portion of the emergency
11 period described in paragraph (1)(B) of section
12 1135(g), any item or service furnished for the
13 treatment of COVID–19, including drugs ap-
14 proved or authorized under such section 505 or
15 such section 564 or, in the case of an individual
16 who is diagnosed with or presumed to have
17 COVID–19, during the portion of such emer-
18 gency period during which such individual is in-
19 fected (or presumed infected) with COVID–19,
20 the treatment of a condition that may com-
21 plicate the treatment of COVID–19; and”.

22 (B) APPLICATION TO ALTERNATIVE COST
23 SHARING.—Section 1916A(b)(3)(B) of the So-
24 cial Security Act (42 U.S.C. 1396o–1(b)(3)(B))
25 is amended—

1 (i) in clause (xi), by striking “any
2 visit” and inserting “any service”; and

3 (ii) by adding at the end the following
4 clauses:

5 “(xii) During the portion of the emer-
6 gency period described in paragraph (1)(B)
7 of section 1135(g) beginning on the date of
8 the enactment of this clause, a COVID–19
9 vaccine licensed under section 351 of the
10 Public Health Service Act, or approved or
11 authorized under section 505 or 564 of the
12 Federal Food, Drug, and Cosmetic Act,
13 and the administration of such vaccine.

14 “(xiii) During such portion of the
15 emergency period described in paragraph
16 (1)(B) of section 1135(g), an item or serv-
17 ice furnished for the treatment of COVID–
18 19, including drugs approved or authorized
19 under such section 505 or such section 564
20 or, in the case of an individual who is diag-
21 nosed with or presumed to have COVID–
22 19, during such portion of such emergency
23 period during which such individual is in-
24 fected (or presumed infected) with
25 COVID–19, the treatment of a condition

1 that may complicate the treatment of
2 COVID–19.”.

3 (C) CLARIFICATION.—The amendments
4 made by this subsection shall apply with respect
5 to a State plan of a territory in the same man-
6 ner as a State plan of one of the 50 States.

7 (b) STATE PEDIATRIC VACCINE DISTRIBUTION PRO-
8 GRAM.—Section 1928 of the Social Security Act (42
9 U.S.C. 1396s) is amended—

10 (1) in subsection (a)(1)—

11 (A) in subparagraph (A), by striking “;
12 and” and inserting a semicolon;

13 (B) in subparagraph (B), by striking the
14 period and inserting “; and”; and

15 (C) by adding at the end the following sub-
16 paragraph:

17 “(C) during the portion of the emergency
18 period described in paragraph (1)(B) of section
19 1135(g) beginning on the date of the enactment
20 of this subparagraph, each vaccine-eligible child
21 (as defined in subsection (b)) is entitled to re-
22 ceive a COVID–19 vaccine from a program-reg-
23 istered provider (as defined in subsection
24 (h)(7)) without charge for—

25 “(i) the cost of such vaccine; or

1 “(ii) the administration of such vac-
2 cine.”;

3 (2) in subsection (c)(2)—

4 (A) in subparagraph (C)(ii), by inserting “,
5 but, during the portion of the emergency period
6 described in paragraph (1)(B) of section
7 1135(g) beginning on the date of the enactment
8 of the COVID–19 Treatment Coverage Act,
9 may not impose a fee for the administration of
10 a COVID–19 vaccine” before the period; and

11 (B) by adding at the end the following sub-
12 paragraph:

13 “(D) The provider will provide and admin-
14 ister an approved COVID–19 vaccine to a vac-
15 cine-eligible child in accordance with the same
16 requirements as apply under the preceding sub-
17 paragraphs to the provision and administration
18 of a qualified pediatric vaccine to such a
19 child.”; and

20 (3) in subsection (d)(1), in the first sentence,
21 by inserting “, including, during the portion of the
22 emergency period described in paragraph (1)(B) of
23 section 1135(g) beginning on the date of the enact-
24 ment of the COVID–19 Treatment Coverage Act,
25 with respect to a COVID–19 vaccine licensed under

1 section 351 of the Public Health Service Act, or ap-
 2 proved or authorized under section 505 or 564 of
 3 the Federal Food, Drug, and Cosmetic Act” before
 4 the period.

5 (c) CHIP.—

6 (1) IN GENERAL.—Section 2103(c) of the So-
 7 cial Security Act (42 U.S.C. 1397cc(c)) is amended
 8 by adding at the end the following paragraph:

9 “(11) COVERAGE OF COVID–19 VACCINES AND
 10 TREATMENT.—Regardless of the type of coverage
 11 elected by a State under subsection (a), child health
 12 assistance provided under such coverage for targeted
 13 low-income children and, in the case that the State
 14 elects to provide pregnancy-related assistance under
 15 such coverage pursuant to section 2112, such preg-
 16 nancy-related assistance for targeted low-income
 17 pregnant women (as defined in section 2112(d))
 18 shall include coverage, during the portion of the
 19 emergency period described in paragraph (1)(B) of
 20 section 1135(g) beginning on the date of the enact-
 21 ment of this paragraph, of—

22 “(A) a COVID–19 vaccine licensed under
 23 section 351 of the Public Health Service Act, or
 24 approved or authorized under section 505 or
 25 564 of the Federal Food, Drug, and Cosmetic

Act, and the administration of such vaccine;
and

“(B) any item or service furnished for the treatment of COVID–19, including drugs approved or authorized under such section 505 or such section 564, or, in the case of an individual who is diagnosed with or presumed to have COVID–19, during the portion of such emergency period during which such individual is infected (or presumed infected) with COVID–19, the treatment of a condition that may complicate the treatment of COVID–19.”.

(2) PROHIBITION OF COST SHARING.—Section 2103(e)(2) of the Social Security Act (42 U.S.C. 1397cc(e)(2)), as amended by section 6004(b)(3) of the Families First Coronavirus Response Act, is amended—

(A) in the paragraph header, by inserting “A COVID–19 VACCINE, COVID–19 TREATMENT,” before “OR PREGNANCY-RELATED ASSISTANCE”;
and

(B) by striking “visits described in section 1916(a)(2)(G), or” and inserting “services described in section 1916(a)(2)(G), vaccines described in section 1916(a)(2)(H) administered

1 during the portion of the emergency period de-
2 scribed in paragraph (1)(B) of section 1135(g)
3 beginning on the date of the enactment of the
4 COVID–19 Treatment Coverage Act, items or
5 services described in section 1916(a)(2)(I) fur-
6 nished during such emergency period, or”.

7 (d) CONFORMING AMENDMENTS.—Section 1937 of
8 the Social Security Act (42 U.S.C. 1396u–7) is amend-
9 ed—

10 (1) in subsection (a)(1)(B), by inserting “,
11 under subclause (XXIII) of section
12 1902(a)(10)(A)(ii),” after “section
13 1902(a)(10)(A)(i)”;

14 (2) in subsection (b)(5), by adding before the
15 period the following: “, and, effective on the date of
16 the enactment of the COVID–19 Treatment Cov-
17 erage Act, must comply with subparagraphs (F)
18 through (I) of subsections (a)(2) and (b)(2) of sec-
19 tion 1916 and subsection (b)(3)(B) of section
20 1916A”.

21 (e) EFFECTIVE DATE.—The amendments made by
22 this section shall take effect on the date of enactment of
23 this Act and shall apply with respect to a COVID–19 vac-
24 cine beginning on the date that such vaccine is licensed
25 under section 351 of the Public Health Service Act (42

1 U.S.C. 262), or approved or authorized under section 505
 2 or 564 of the Federal Food, Drug, and Cosmetic Act.

3 **SEC. 3. COVERAGE OF TREATMENT AND VACCINES AT NO**
 4 **COST SHARING FOR THE UNINSURED.**

5 (a) IN GENERAL.—Section 1902(a)(10) of the Social
 6 Security Act (42 U.S.C. 1396a(a)(10)) is amended, in the
 7 matter following subparagraph (G), by striking “and any
 8 visit described in section 1916(a)(2)(G)” and inserting the
 9 following: “, any COVID–19 vaccine that is administered
 10 during any such portion (and the administration of such
 11 vaccine), any item or service that is furnished during any
 12 such portion for the treatment of COVID–19, including
 13 drugs approved or authorized under section 505 or 564
 14 of the Federal Food, Drug, and Cosmetic Act, or, in the
 15 case of an individual who is diagnosed with or presumed
 16 to have COVID–19, during the period such individual is
 17 infected (or presumed infected) with COVID–19, the
 18 treatment of a condition that may complicate the treat-
 19 ment of COVID–19, the treatment of a COVID–19-re-
 20 lated condition that follows the treatment of, or hos-
 21 pitalization with, COVID–19, and any services described
 22 in section 1916(a)(2)(G)”.

23 (b) DEFINITION OF UNINSURED INDIVIDUAL.—

1 (1) IN GENERAL.—Subsection (ss) of section
 2 1902 of the Social Security Act (42 U.S.C. 1396a)
 3 is amended to read as follows:

4 “(ss) UNINSURED INDIVIDUAL DEFINED.—For pur-
 5 poses of this section, the term ‘uninsured individual’
 6 means, notwithstanding any other provision of this title,
 7 any individual who is not covered by minimum essential
 8 coverage (as defined in section 5000A(f)(1) of the Internal
 9 Revenue Code of 1986).”.

10 (2) EFFECTIVE DATE.—The amendment made
 11 by paragraph (1) shall take effect and apply as if in-
 12 cluded in the enactment of the Families First
 13 Coronavirus Response Act (Public Law 116–127).

14 (c) CLARIFICATION REGARDING EMERGENCY SERV-
 15 ICES FOR CERTAIN INDIVIDUALS.—For purposes of apply-
 16 ing section 1903(v)(2)(A) of the Social Security Act (42
 17 U.S.C. 1396b(v)(2)(A)), the care and services described
 18 in such section shall include the following:

19 (1) In vitro diagnostic products (as defined in
 20 section 809.3(a) of title 21, Code of Federal Regula-
 21 tions), and the administration of such products.

22 (2) A COVID–19 vaccine (and the administra-
 23 tion of such vaccine).

24 (3) Any item or service that is furnished for the
 25 treatment of COVID–19 or a condition that may

1 complicate the treatment of COVID–19, the treat-
 2 ment of a COVID–19-related condition that follows
 3 the treatment of, or hospitalization with, COVID–
 4 19, and any services described in section
 5 1916(a)(2)(G) of such Act (42 U.S.C.
 6 1396o(a)(2)(G)).

7 (d) EMERGENCY MEDICAID FOR INDIVIDUALS WITH
 8 SUSPECTED COVID–19 INFECTIONS.—For purposes of
 9 applying section 1903(v)(3) of the Social Security Act (42
 10 U.S.C. 1396b(v)(3)), the term “emergency medical condi-
 11 tion” (as defined in such section 1903(v)(3)) shall include,
 12 with respect to an individual, any concern that the indi-
 13 vidual may have contracted COVID–19.

14 (e) TREATMENT OF ASSISTANCE AND SERVICES PRO-
 15 VIDED.—Beginning on the date of enactment of this Act—

16 (1) the value of assistance or services provided
 17 to any person under a program with respect to
 18 which a coronavirus response law establishes or ex-
 19 pands eligibility or benefits shall not be considered
 20 income or resources; and

21 (2)(A) any medical coverage or services pro-
 22 vided to an individual under subsection (v) of section
 23 1903 of the Social Security Act (42 U.S.C. 1396b)
 24 shall be considered treatment for an emergency med-
 25 ical condition (as defined in subsection (v)(3) of

1 such section) for any purpose under any Federal,
 2 State, or local law, including law relating to tax-
 3 ation, welfare, and public assistance programs; and

4 (B) a participating State or political subdivision
 5 of a State shall not decrease any assistance other-
 6 wise provided to an individual because of the receipt
 7 of benefits under the Social Security Act (42 U.S.C.
 8 301 et seq.).

9 (f) OTHER DEFINITIONS.—In this section:

10 (1) CORONAVIRUS PUBLIC HEALTH EMER-
 11 GENCY.—The term “coronavirus public health emer-
 12 gency” means—

13 (A) an emergency involving Federal pri-
 14 mary responsibility determined to exist by the
 15 President under section 501(b) of the Robert T.
 16 Stafford Disaster Relief and Emergency Assist-
 17 ance Act (42 U.S.C. 5191(b)) with respect to
 18 COVID–19 or any other coronavirus with pan-
 19 demic potential;

20 (B) an emergency declared by a Federal
 21 official with respect to coronavirus (as defined
 22 in section 506 of the Coronavirus Preparedness
 23 and Response Supplemental Appropriations
 24 Act, 2020 (Public Law 116–123));

1 (C) a national emergency declared by the
2 President under the National Emergencies Act
3 (50 U.S.C. 1601 et seq.) with respect to
4 COVID–19 or any other coronavirus with pan-
5 demic potential; and

6 (D) a public health emergency declared by
7 the Secretary of Health and Human Services
8 pursuant to section 319 of the Public Health
9 Service Act (42 U.S.C. 247(d)) with respect to
10 COVID–19 or any other coronavirus with pan-
11 demic potential.

12 (2) CORONAVIRUS RESPONSE LAW.—The term
13 “coronavirus response law” means—

14 (A) the Coronavirus Preparedness and Re-
15 sponse Supplemental Appropriations Act, 2020
16 (Public Law 116–123);

17 (B) the Families First Coronavirus Re-
18 sponse Act (Public Law 116–127);

19 (C) the Coronavirus Aid, Relief, and Eco-
20 nomic Security Act (Public Law 116–136); and

21 (D) any subsequent law that appropriates
22 or otherwise makes available funds, establishes,
23 amends, or expands a program, or authorizes
24 activities or assistance for a purpose that is ex-
25 pressly related to responding to, or mitigating

1 the effects of, a coronavirus public health emer-
2 gency.

3 (g) REIMBURSEMENT FOR ADDITIONAL HEALTH
4 SERVICES RELATING TO CORONAVIRUS.—Title V of divi-
5 sion A of the Families First Coronavirus Response Act
6 (Public Law 116–127) is amended under the heading
7 “Department of Health and Human Services—Office of
8 the Secretary—Public Health and Social Services Emer-
9 gency Fund” by inserting “, or treatment related to
10 SARS-CoV-2 or COVID-19 for uninsured individuals”
11 after “or visits described in paragraph (2) of such section
12 for uninsured individuals”.

13 (h) RULE OF CONSTRUCTION.—Nothing in this sec-
14 tion shall be construed to limit—

15 (1) the types of care and services that are nec-
16 essary for the treatment of an emergency condition
17 for purposes of section 1903(v) of the Social Secu-
18 rity Act (42 U.S.C. 1396b(v)); or

19 (2) the types of medical conditions that are
20 “emergency medical conditions” for purposes of such
21 section.

22 **SEC. 4. COVERAGE OF COVID-19 TREATMENT AT NO COST**
23 **SHARING UNDER MEDICARE PROGRAM.**

24 (a) IN GENERAL.—Notwithstanding any other provi-
25 sion of law, in the case of a specified COVID-19 treat-

1 ment service (as defined in subsection (b)) furnished dur-
 2 ing any portion of the emergency period described in para-
 3 graph (1)(B) of section 1135(g) of the Social Security Act
 4 (42 U.S.C. 1320b–5(g)) beginning on or after the date
 5 of the enactment of this Act to an individual entitled to
 6 benefits under part A or enrolled under part B of title
 7 XVIII of the Social Security Act (42 U.S.C. 1395 et seq.)
 8 for which payment is made under such part A or such
 9 part B, the Secretary of Health and Human Services (in
 10 this section referred to as the “Secretary”) shall provide
 11 that—

12 (1) any cost sharing required (including any de-
 13 ductible, copayment, or coinsurance) applicable to
 14 such individual under such part A or such part B
 15 with respect to such item or service is paid by the
 16 Secretary; and

17 (2) the provider of services or supplier (as de-
 18 fined in section 1861 of the Social Security Act (42
 19 U.S.C. 1395x)) does not hold such individual liable
 20 for such requirement.

21 (b) DEFINITION OF SPECIFIED COVID–19 TREAT-
 22 MENT SERVICES.—For purposes of this section, the term
 23 “specified COVID–19 treatment service” means any item
 24 or service furnished to an individual for which payment
 25 may be made under part A or part B of title XVIII of

1 the Social Security Act (42 U.S.C. 1395 et seq.) if such
 2 item or service is included in a claim with an ICD–10–
 3 CM code relating to COVID–19 (as described in the docu-
 4 ment entitled “ICD–10–CM Official Coding Guidelines—
 5 Supplement Coding encounters related to COVID–19
 6 Coronavirus Outbreak” published on February 20, 2020,
 7 or as otherwise specified by the Secretary).

8 (c) RECOVERY OF COST-SHARING AMOUNTS PAID BY
 9 THE SECRETARY IN THE CASE OF SUPPLEMENTAL IN-
 10 SURANCE COVERAGE.—

11 (1) IN GENERAL.—In the case of any amount
 12 paid by the Secretary pursuant to subsection (a)(1)
 13 that the Secretary determines would otherwise have
 14 been paid by a group health plan or health insurance
 15 issuer (as such terms are defined in section 2791 of
 16 the Public Health Service Act (42 U.S.C. 300gg–
 17 91)), a private entity offering a medicare supple-
 18 mental policy under section 1882 of the Social Secu-
 19 rity Act (42 U.S.C. 1395ss), any other health plan
 20 offering supplemental coverage, a State plan under
 21 title XIX of the Social Security Act, or the Secretary
 22 of Defense under the TRICARE program, such
 23 plan, issuer, private entity, other health plan, State
 24 plan, or Secretary of Defense, as applicable, shall
 25 pay to the Secretary, not later than 1 year after

1 such plan, issuer, private entity, other health plan,
2 State plan, or Secretary of Defense receives a notice
3 under paragraph (3), such amount in accordance
4 with this subsection.

5 (2) REQUIRED INFORMATION.—Not later than
6 9 months after the date of the enactment of this
7 Act, each group health plan, health insurance issuer,
8 private entity, other health plan, State plan, and
9 Secretary of Defense described in paragraph (1)
10 shall submit to the Secretary such information as
11 the Secretary determines necessary for purposes of
12 carrying out this subsection. Such information so
13 submitted shall be updated by such plan, issuer, pri-
14 vate entity, other health plan, State plan, or Sec-
15 retary of Defense, as applicable, at such time and in
16 such manner as specified by the Secretary.

17 (3) REVIEW OF CLAIMS AND NOTIFICATION.—
18 The Secretary shall establish a process under which
19 claims for items and services for which the Secretary
20 has paid an amount pursuant to subsection (a)(1)
21 are reviewed for purposes of identifying if such
22 amount would otherwise have been paid by a plan,
23 issuer, private entity, other health plan, State plan,
24 or Secretary of Defense described in paragraph (1).
25 In the case such a claim is so identified, the Sec-

1 retary shall determine the amount that would have
2 been otherwise payable by such plan, issuer, private
3 entity, other health plan, State plan, or Secretary of
4 Defense and notify such plan, issuer, private entity,
5 other health plan, State plan, or Secretary of De-
6 fense of such amount.

7 (4) ENFORCEMENT.—The Secretary may im-
8 pose a civil monetary penalty in an amount deter-
9 mined appropriate by the Secretary in the case of a
10 plan, issuer, private entity, other health plan, or
11 State plan that fails to comply with a provision of
12 this section. The provisions of section 1128A of the
13 Social Security Act shall apply to a civil monetary
14 penalty imposed under the previous sentence in the
15 same manner as such provisions apply to a penalty
16 or proceeding under subsection (a) or (b) of such
17 section.

18 (d) FUNDING.—The Secretary shall provide for the
19 transfer to the Centers for Medicare & Medicaid Program
20 Management Account from the Federal Hospital Insur-
21 ance Trust Fund and the Federal Supplementary Trust
22 Fund (in such portions as the Secretary determines appro-
23 priate) \$100,000,000 for purposes of carrying out this
24 section.

1 (e) REPORT.—Not later than 3 years after the date
 2 of the enactment of this Act, the Inspector General of the
 3 Department of Health and Human Services shall submit
 4 to Congress a report containing an analysis of amounts
 5 paid pursuant to subsection (a)(1) compared to amounts
 6 paid to the Secretary pursuant to subsection (c).

7 (f) IMPLEMENTATION.—Notwithstanding any other
 8 provision of law, the Secretary may implement the provi-
 9 sions of this section by program instruction or otherwise.

10 **SEC. 5. COVERAGE OF COVID-19 TREATMENT AT NO COST**
 11 **SHARING UNDER MEDICARE ADVANTAGE**
 12 **PROGRAM.**

13 (a) IN GENERAL.—Section 1852(a)(1)(B) of the So-
 14 cial Security Act (42 U.S.C. 1395w-22(a)(1)(B)) is
 15 amended by adding at the end the following new clause:

16 “(vii) SPECIAL COVERAGE RULES FOR
 17 SPECIFIED COVID-19 TREATMENT SERV-
 18 ICES.—Notwithstanding clause (i), in the
 19 case of a specified COVID-19 treatment
 20 service (as defined in section 4(b) of the
 21 COVID-19 Treatment Coverage Act) that
 22 is furnished during a plan year occurring
 23 during any portion of the emergency period
 24 defined in section 1135(g)(1)(B) beginning
 25 on or after the date of the enactment of

1 this clause, a Medicare Advantage plan
 2 may not, with respect to such service, im-
 3 pose—

4 “(I) any cost-sharing require-
 5 ment (including a deductible, copay-
 6 ment, or coinsurance requirement);
 7 and

8 “(II) in the case such service is a
 9 critical specified COVID–19 treat-
 10 ment service (including ventilator
 11 services and intensive care unit serv-
 12 ices), any prior authorization or other
 13 utilization management requirement.

14 A Medicare Advantage plan may not take
 15 the application of this clause into account
 16 for purposes of a bid amount submitted by
 17 such plan under section 1854(a)(6).”.

18 (b) IMPLEMENTATION.—Notwithstanding any other
 19 provision of law, the Secretary of Health and Human
 20 Services may implement the amendments made by this
 21 section by program instruction or otherwise.

22 **SEC. 6. COVERAGE OF COVID–19 DRUGS AT NO COST SHAR-**
 23 **ING UNDER MEDICARE PRESCRIPTION DRUG**
 24 **PLANS.**

25 (a) COVERAGE REQUIREMENT.—

1 (1) IN GENERAL.—Section 1860D–4(b)(3) of
 2 the Social Security Act (42 U.S.C. 1395w–
 3 104(b)(3)) is amended by adding at the end the fol-
 4 lowing new subparagraph:

5 “(I) REQUIRED INCLUSION OF DRUGS IN-
 6 TENDED TO TREAT COVID–19.—

7 “(i) IN GENERAL.—Notwithstanding
 8 any other provision of law, a PDP sponsor
 9 offering a prescription drug plan shall,
 10 with respect to a plan year, any portion of
 11 which occurs during the period described
 12 in clause (ii), be required to—

13 “(I) include in any formulary—

14 “(aa) all covered part D
 15 drugs with a medically accepted
 16 indication (as defined in section
 17 1860D–2(e)(4)) to treat COVID–
 18 19 that are marketed in the
 19 United States; and

20 “(bb) all drugs authorized
 21 under section 564 or 564A of the
 22 Federal Food, Drug, and Cos-
 23 metic Act to treat COVID–19;
 24 and

1 “(II) not impose any prior au-
 2 thorization or other utilization man-
 3 agement requirement with respect to
 4 such drugs described in item (aa) or
 5 (bb) of subclause (I) (other than such
 6 a requirement that limits the quantity
 7 of drugs due to safety).

8 “(ii) PERIOD DESCRIBED.—For pur-
 9 poses of clause (i), the period described in
 10 this clause is the period during which there
 11 exists the public health emergency declared
 12 by the Secretary pursuant to section 319
 13 of the Public Health Service Act on Janu-
 14 ary 31, 2020, entitled ‘Determination that
 15 a Public Health Emergency Exists Nation-
 16 wide as the Result of the 2019 Novel
 17 Coronavirus’ (including any renewal of
 18 such declaration pursuant to such sec-
 19 tion).”.

20 (b) ELIMINATION OF COST SHARING.—

21 (1) ELIMINATION OF COST SHARING FOR
 22 DRUGS INTENDED TO TREAT COVID-19 UNDER
 23 STANDARD AND ALTERNATIVE PRESCRIPTION DRUG
 24 COVERAGE.—Section 1860D-2 of the Social Security
 25 Act (42 U.S.C. 1395w-102) is amended—

1 (A) in subsection (b)—

2 (i) in paragraph (1)(A), by striking
3 “The coverage” and inserting “Subject to
4 paragraph (8), the coverage”;

5 (ii) in paragraph (2)—

6 (I) in subparagraph (A), by in-
7 serting after “Subject to subpara-
8 graphs (C) and (D)” the following:
9 “and paragraph (8)”;

10 (II) in subparagraph (C)(i), by
11 striking “paragraph (4)” and insert-
12 ing “paragraphs (4) and (8)”;

13 (III) in subparagraph (D)(i), by
14 striking “paragraph (4)” and insert-
15 ing “paragraphs (4) and (8)”;

16 (iii) in paragraph (4)(A)(i), by strik-
17 ing “The coverage” and inserting “Subject
18 to paragraph (8), the coverage”;

19 (iv) by adding at the end the following
20 new paragraph:

21 “(8) ELIMINATION OF COST-SHARING FOR
22 DRUGS INTENDED TO TREAT COVID-19.—The cov-
23 erage does not impose any deductible, copayment,
24 coinsurance, or other cost-sharing requirement for
25 drugs described in section 1860D-4(b)(3)(I)(i)(I)

1 with respect to a plan year, any portion of which oc-
 2 curs during the period during which there exists the
 3 public health emergency declared by the Secretary
 4 pursuant to section 319 of the Public Health Service
 5 Act on January 31, 2020, entitled ‘Determination
 6 that a Public Health Emergency Exists Nationwide
 7 as the Result of the 2019 Novel Coronavirus’ (in-
 8 cluding any renewal of such declaration pursuant to
 9 such section).’; and

10 (B) in subsection (c), by adding at the end

11 the following new paragraph:

12 “(4) SAME ELIMINATION OF COST-SHARING FOR
 13 DRUGS INTENDED TO TREAT COVID–19.—The cov-
 14 erage is in accordance with subsection (b)(8).”.

15 (2) ELIMINATION OF COST SHARING FOR
 16 DRUGS INTENDED TO TREAT COVID–19 DISPENSED
 17 TO INDIVIDUALS WHO ARE SUBSIDY ELIGIBLE INDIV-
 18 VIDUALS.—Section 1860D–14(a) of the Social Secu-
 19 rity Act (42 U.S.C. 1395w–114(a)) is amended—

20 (A) in paragraph (1)—

21 (i) in subparagraph (D)—

22 (I) in clause (ii), by striking “In
 23 the case of” and inserting “Subject to
 24 subparagraph (F), in the case of”;
 25 and

1 (II) in clause (iii), by striking
 2 “In the case of” and inserting “Sub-
 3 ject to subparagraph (F), in the case
 4 of”; and

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

7 “(F) ELIMINATION OF COST-SHARING FOR
 8 DRUGS INTENDED TO TREAT COVID-19.—Cov-
 9 erage that is in accordance with section
 10 1860D-2(b)(8).”; and

11 (B) in paragraph (2)—

12 (i) in subparagraph (B), by striking
 13 “A reduction” and inserting “Subject to
 14 subparagraph (F), a reduction”;

15 (ii) in subparagraph (D), by striking
 16 “The substitution” and inserting “Subject
 17 to subparagraph (F), the substitution”;

18 (iii) in subparagraph (E), by inserting
 19 after “Subject to” the following: “subpara-
 20 graph (F) and”; and

21 (iv) by adding at the end the following
 22 new subparagraph:

23 “(F) ELIMINATION OF COST-SHARING FOR
 24 DRUGS INTENDED TO TREAT COVID-19.—Cov-

1 erage that is in accordance with section
2 1860D–2(b)(8).”.

3 (c) IMPLEMENTATION.—Notwithstanding any other
4 provision of law, the Secretary of Health and Human
5 Services may implement the amendments made by this
6 section by program instruction or otherwise.

7 **SEC. 7. COVERAGE OF COVID-19 TREATMENT AT NO COST**
8 **SHARING UNDER PRIVATE HEALTH INSUR-**
9 **ANCE.**

10 (a) IN GENERAL.—A group health plan and a health
11 insurance issuer offering group or individual health insur-
12 ance coverage (including a grandfathered health plan (as
13 defined in section 1251(e) of the Patient Protection and
14 Affordable Care Act)) shall provide coverage, and shall not
15 impose any cost sharing (including deductibles, copay-
16 ments, and coinsurance) requirements, for the following
17 items and services furnished during any portion of the
18 emergency period defined in paragraph (1)(B) of section
19 1135(g) of the Social Security Act (42 U.S.C. 1320b–
20 5(g)) beginning on or after the date of the enactment of
21 this Act:

22 (1) Medically necessary items and services (in-
23 cluding in-person or telehealth visits in which such
24 items and services are furnished) that are furnished
25 to an individual who has been diagnosed with (or

1 after provision of the items and services is diagnosed
2 with) COVID–19 to treat or mitigate the effects of
3 COVID–19.

4 (2) Medically necessary items and services (in-
5 cluding in-person or telehealth visits in which such
6 items and services are furnished) that are furnished
7 to an individual who is presumed to have COVID–
8 19 but is never diagnosed as such, if the following
9 conditions are met:

10 (A) Such items and services are furnished
11 to the individual to treat or mitigate the effects
12 of COVID–19 or to mitigate the impact of
13 COVID–19 on society.

14 (B) Health care providers have taken ap-
15 propriate steps under the circumstances to
16 make a diagnosis, or confirm whether a diag-
17 nosis was made, with respect to such individual,
18 for COVID–19, if possible.

19 (b) ITEMS AND SERVICES RELATED TO COVID–
20 19.—For purposes of this section—

21 (1) not later than one week after the date of
22 the enactment of this section, the Secretary of
23 Health and Human Services, the Secretary of Labor,
24 and the Secretary of the Treasury shall jointly issue
25 guidance specifying applicable diagnoses and medi-

1 cally necessary items and services related to
 2 COVID-19; and

3 (2) such items and services shall include all
 4 items or services that are relevant to the treatment
 5 or mitigation of COVID-19, regardless of whether
 6 such items or services are ordinarily covered under
 7 the terms of a group health plan or group or indi-
 8 vidual health insurance coverage offered by a health
 9 insurance issuer.

10 (c) ENFORCEMENT.—

11 (1) APPLICATION WITH RESPECT TO PHSA,
 12 ERISA, AND IRC.—The provisions of this section
 13 shall be applied by the Secretary of Health and
 14 Human Services, the Secretary of Labor, and the
 15 Secretary of the Treasury to group health plans and
 16 health insurance issuers offering group or individual
 17 health insurance coverage as if included in the provi-
 18 sions of part A of title XXVII of the Public Health
 19 Service Act (42 U.S.C. 300gg et seq.), part 7 of sub-
 20 title B of title I of the Employee Retirement Income
 21 Security Act of 1974 (29 U.S.C. 1181 et seq.), and
 22 subchapter B of chapter 100 of the Internal Rev-
 23 enue Code of 1986, as applicable.

24 (2) PRIVATE RIGHT OF ACTION.—An individual
 25 with respect to whom an action is taken by a group

1 health plan or health insurance issuer offering group
 2 or individual health insurance coverage in violation
 3 of subsection (a) may commence a civil action
 4 against the plan or issuer for appropriate relief. The
 5 previous sentence shall not be construed as limiting
 6 any enforcement mechanism otherwise applicable
 7 pursuant to paragraph (1).

8 (d) IMPLEMENTATION.—The Secretary of Health and
 9 Human Services, the Secretary of Labor, and the Sec-
 10 retary of the Treasury may implement the provisions of
 11 this section through sub-regulatory guidance, program in-
 12 struction or otherwise.

13 (e) TERMS.—The terms “group health plan”, “health
 14 insurance issuer”, “group health insurance coverage”, and
 15 “individual health insurance coverage” have the meanings
 16 given such terms in section 2791 of the Public Health
 17 Service Act (42 U.S.C. 300gg–91), section 733 of the Em-
 18 ployee Retirement Income Security Act of 1974 (29
 19 U.S.C. 1191b), and section 9832 of the Internal Revenue
 20 Code of 1986, as applicable.

21 **SEC. 8. COVERAGE OF COVID-19 TREATMENT AT NO COST**
 22 **SHARING FOR TRICARE RECIPIENTS.**

23 (a) IN GENERAL.—Section 6006(a) of the Families
 24 First Coronavirus Response Act (Public Law 116–127; 38
 25 U.S.C. 1074 note) is amended by striking “or visits de-

1 scribed in paragraph (2) of such section” and inserting
 2 “, visits described in paragraph (2) of such section, or
 3 medical care to treat COVID–19”.

4 (b) EFFECTIVE DATE.—The amendment made by
 5 subsection (a) shall apply with respect to medical care fur-
 6 nished on or after the date of the enactment of this Act.

7 **SEC. 9. COVERAGE OF COVID-19 TREATMENT AT NO COST**
 8 **SHARING FOR VETERANS.**

9 (a) IN GENERAL.—Section 6006(b) of the Families
 10 First Coronavirus Response Act (Public Law 116–127; 38
 11 U.S.C. 1701 note) is amended by striking “or visits de-
 12 scribed in paragraph (2) of such section” and inserting
 13 “, visits described in paragraph (2) of such section, or hos-
 14 pital care or medical services to treat COVID–19”.

15 (b) EFFECTIVE DATE.—The amendment made by
 16 subsection (a) shall apply with respect to hospital care and
 17 medical services furnished on or after the date of the en-
 18 actment of this Act.

19 **SEC. 10. COVERAGE OF COVID-19 TREATMENT AT NO COST**
 20 **SHARING FOR FEDERAL CIVILIAN EMPLOY-**
 21 **EES.**

22 (a) IN GENERAL.—Section 6006(c) of the Families
 23 First Coronavirus Response Act (Public Law 116–127; 5
 24 U.S.C. 8904 note) is amended by striking “or visits de-
 25 scribed in paragraph (2) of such section” and inserting

1 “, visits described in paragraph (2) of such section, or hos-
 2 pital care or medical services to treat COVID–19”.

3 (b) **EFFECTIVE DATE.**—The amendment made by
 4 subsection (a) shall apply with respect to hospital care and
 5 medical services furnished on or after the date of the en-
 6 actment of this Act.

7 **SEC. 11. COVERAGE OF COVID–19 TREATMENT AT NO COST**
 8 **SHARING UNDER INDIAN HEALTH SERVICE.**

9 The Secretary of Health and Human Services shall
 10 cover, without the imposition of any cost sharing require-
 11 ments, the cost of the following on or after the date of
 12 the enactment of this Act to Indians (as defined in section
 13 4 of the Indian Health Care Improvement Act (25 U.S.C.
 14 1603)) receiving health services through the Indian Health
 15 Service, regardless of whether such items or services are
 16 authorized under the Contract Health Services program
 17 funded by the Indian Health Service and operated by the
 18 Indian Health Service or operated by an Indian tribe or
 19 tribal organization under a contract or compact with the
 20 Indian Health Service under the Indian Self-Determina-
 21 tion and Education Assistance Act (25 U.S.C. 5301 et
 22 seq.), or are provided as a health service of the Indian
 23 Health Service:

24 (1) A COVID–19 vaccine licensed under section
 25 351 of the Public Health Service Act, or approved

1 or authorized under section 505 or 564 of the Fed-
 2 eral Food, Drug, and Cosmetic Act, and the admin-
 3 istration of such vaccine.

4 (2) Any item or service furnished for the treat-
 5 ment of COVID–19, including drugs approved or au-
 6 thorized under such section 505 or such section 564,
 7 or, in the case of an individual who is diagnosed
 8 with or presumed to have COVID–19, during the
 9 portion of such emergency period during which such
 10 individual is infected (or presumed infected) with
 11 COVID–19, the treatment of a condition that may
 12 complicate the treatment of COVID–19.

13 **SEC. 12. SENSE OF CONGRESS RELATED TO SURPRISE MED-**
 14 **ICAL BILLS.**

15 It is the sense of Congress that no individual should
 16 receive a medical bill, including a balance bill, for the cost
 17 of COVID–19 treatment, office visits related to COVID–
 18 19 treatment, COVID–19 vaccines, or the administration
 19 of those vaccines.

20 **SEC. 13. SPECIAL ENROLLMENT PERIOD; OUTREACH AND**
 21 **ENROLLMENT ACTIVITIES.**

22 (a) SPECIAL ENROLLMENT PERIOD THROUGH EX-
 23 CHANGES.—Section 1311(c) of the Patient Protection and
 24 Affordable Care Act (42 U.S.C. 18031(c)) is amended—

25 (1) in paragraph (6)—

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

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

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

7 “(E) subject to subparagraph (B) of para-
8 graph (8), the special enrollment period de-
9 scribed in subparagraph (A) of such para-
10 graph.”; and

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

13 “(8) SPECIAL ENROLLMENT PERIOD FOR CER-
14 TAIN PUBLIC HEALTH EMERGENCY.—

15 “(A) IN GENERAL.—The Secretary shall,
16 subject to subparagraph (B), require an Ex-
17 change to provide—

18 “(i) for a special enrollment period
19 during the emergency period described in
20 section 1135(g)(1)(B) of the Social Secu-
21 rity Act—

22 “(I) which shall begin on the
23 date that is one week after the date of
24 the enactment of this paragraph and
25 which, in the case of an Exchange es-

1 tablished or operated by the Secretary
2 within a State pursuant to section
3 1321(c), shall be an 8-week period;
4 and

5 “(II) during which any individual
6 who is otherwise eligible to enroll in a
7 qualified health plan through the Ex-
8 change may enroll in such a qualified
9 health plan; and

10 “(ii) that, in the case of an individual
11 who enrolls in a qualified health plan
12 through the Exchange during such enroll-
13 ment period, the coverage period under
14 such plan shall begin, at the option of the
15 individual, on April 1, 2020, or on the first
16 day of the month following the day the in-
17 dividual selects a plan through such special
18 enrollment period.

19 “(B) EXCEPTION.—The requirement of
20 subparagraph (A) shall not apply to a State-op-
21 erated or State-established Exchange if such
22 Exchange, prior to the date of the enactment of
23 this paragraph, established or otherwise pro-
24 vided for a special enrollment period to address
25 access to coverage under qualified health plans

1 offered through such Exchange during the
 2 emergency period described in section
 3 1135(g)(1)(B) of the Social Security Act.”.

4 (b) FEDERAL EXCHANGE OUTREACH AND EDU-
 5 CATIONAL ACTIVITIES.—Section 1321(c) of the Patient
 6 Protection and Affordable Care Act (42 U.S.C. 18041(c))
 7 is amended by adding at the end the following new para-
 8 graph:

9 “(3) OUTREACH AND EDUCATIONAL ACTIVI-
 10 TIES.—

11 “(A) IN GENERAL.—In the case of an Ex-
 12 change established or operated by the Secretary
 13 within a State pursuant to this subsection, the
 14 Secretary shall carry out outreach and edu-
 15 cational activities for purposes of informing po-
 16 tential enrollees in qualified health plans offered
 17 through the Exchange of the availability of cov-
 18 erage under such plans and financial assistance
 19 for coverage under such plans. Such outreach
 20 and educational activities shall be provided in a
 21 manner that is culturally and linguistically ap-
 22 propriate to the needs of the populations being
 23 served by the Exchange (including hard-to-
 24 reach populations, such as racial and sexual mi-

1 norities, limited English proficient populations,
2 and young adults).

3 “(B) LIMITATION ON USE OF FUNDS.—No
4 funds appropriated under this paragraph shall
5 be used for expenditures for promoting non-
6 ACA compliant health insurance coverage.

7 “(C) NON-ACA COMPLIANT HEALTH IN-
8 SURANCE COVERAGE.—For purposes of sub-
9 paragraph (B):

10 “(i) The term ‘non-ACA compliant
11 health insurance coverage’ means health
12 insurance coverage, or a group health plan,
13 that is not a qualified health plan.

14 “(ii) Such term includes the following:

15 “(I) An association health plan.

16 “(II) Short-term limited duration
17 insurance.

18 “(D) FUNDING.—There are appropriated,
19 out of any funds in the Treasury not otherwise
20 appropriated, \$25,000,000, to remain available
21 until expended—

22 “(i) to carry out this paragraph; and

23 “(ii) at the discretion of the Sec-
24 retary, to carry out section 1311(i), with
25 respect to an Exchange established or op-

1 erated by the Secretary within a State pur-
2 suant to this subsection.”.

3 (c) IMPLEMENTATION.—The Secretary of Health and
4 Human Services may implement the provisions of (includ-
5 ing amendments made by) this section through subregu-
6 latory guidance, program instruction, or otherwise.

○