

118TH CONGRESS
1ST SESSION

S. _____

To amend titles XVIII and XIX of the Social Security Act to expand the mental health care workforce and services, reduce prescription drug costs, and extend certain expiring provisions under Medicare and Medicaid, and for other purposes.

IN THE SENATE OF THE UNITED STATES

_____ introduced the following bill; which was read twice
and referred to the Committee on _____

A BILL

To amend titles XVIII and XIX of the Social Security Act to expand the mental health care workforce and services, reduce prescription drug costs, and extend certain expiring provisions under Medicare and Medicaid, and for other purposes.

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

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “_____ Act of _____”.

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

Sec. 1. Short title; table of contents.

TITLE I—EXPANDING MENTAL HEALTH CARE WORKFORCE AND SERVICES UNDER MEDICARE AND MEDICAID

- Sec. 101. Expanding eligibility for incentives under the Medicare health professional shortage area bonus program to practitioners furnishing mental health and substance use disorder services.
- Sec. 102. Improved access to mental health services under the Medicare program.
- Sec. 103. Clarifying coverage of occupational therapy under the Medicare program.
- Sec. 104. Medicare incentives for behavioral health integration with primary care.
- Sec. 105. Establishment of Medicare incident to modifier for mental health services furnished through telehealth.
- Sec. 106. Guidance on furnishing behavioral health services via telehealth to individuals with limited English proficiency under Medicare program.
- Sec. 107. Ensuring timely communication regarding telehealth and interstate licensure requirements.
- Sec. 108. Facilitating accessibility for behavioral health services furnished through telehealth.
- Sec. 109. Requiring Enhanced & Accurate Lists of (REAL) Health Providers Act.
- Sec. 110. Guidance to States on strategies under Medicaid and CHIP to increase mental health and substance use disorder care provider capacity.
- Sec. 111. Guidance to States on supporting mental health services and substance use disorder care for children and youth.
- Sec. 112. Recurring analysis and publication of Medicaid health care data related to mental health services.
- Sec. 113. Guidance to States on supporting mental health services or substance use disorder care integration with primary care in Medicaid and CHIP.
- Sec. 114. Medicaid State option relating to inmates with a substance use disorder pending disposition of charges.

TITLE II—REDUCING PRESCRIPTION DRUG COSTS UNDER MEDICARE AND MEDICAID

- Sec. 201. Assuring pharmacy access and choice for Medicare beneficiaries.
- Sec. 202. Ensuring accurate payments to pharmacies under Medicaid.
- Sec. 203. Protecting seniors from excessive cost-sharing for certain medicines.
- Sec. 204. Requirements for PDP sponsors of prescription drug plans and Medicare Advantage organizations offering MA-PD plans that use formularies under part D of the Medicare program.

TITLE III—MEDICAID EXPIRING PROVISIONS

- Sec. 301. Delaying certain disproportionate share hospital payment reductions under the Medicaid program.
- Sec. 302. Extension of State option to provide medical assistance for certain individuals who are patients in certain institutions for mental diseases.

TITLE IV—MEDICARE EXPIRING PROVISIONS AND PROVIDER
PAYMENT CHANGES

- Sec. 401. Extension of funding for quality measure endorsement, input, and selection.
- Sec. 402. Extension of funding outreach and assistance for low-income programs.
- Sec. 403. Extension of the work geographic index floor under the Medicare program.
- Sec. 404. Extending incentive payments for participation in eligible alternative payment models.
- Sec. 405. Payment rates for durable medical equipment under the Medicare Program.
- Sec. 406. Extending the independence at home medical practice demonstration program under the Medicare program.
- Sec. 407. Increase in support for physicians and other professionals in adjusting to Medicare payment changes.
- Sec. 408. Revised phase-in of Medicare clinical laboratory test payment changes.
- Sec. 409. Extension of adjustment to calculation of hospice cap amount under Medicare.

TITLE V—OFFSETS

- Sec. 501. Medicaid Improvement Fund.
- Sec. 502. Medicare Improvement Fund.

1 **TITLE I—EXPANDING MENTAL**
2 **HEALTH CARE WORKFORCE**
3 **AND SERVICES UNDER MEDI-**
4 **CARE AND MEDICAID**

5 **SEC. 101. EXPANDING ELIGIBILITY FOR INCENTIVES**
6 **UNDER THE MEDICARE HEALTH PROFES-**
7 **SIONAL SHORTAGE AREA BONUS PROGRAM**
8 **TO PRACTITIONERS FURNISHING MENTAL**
9 **HEALTH AND SUBSTANCE USE DISORDER**
10 **SERVICES.**

11 Section 1833(m) of the Social Security Act (42
12 U.S.C. 1395l(m)) is amended—

1 (1) by striking paragraph (1) and inserting the
2 following new paragraph:

3 “(1) In the case of—

4 “(A) physicians’ services (other than specified
5 health services that are eligible for the additional
6 payment under subparagraph (B)) furnished in a
7 year to an individual, who is covered under the in-
8 surance program established by this part and who
9 incurs expenses for such services, in an area that is
10 designated (under section 332(a)(1)(A) of the Public
11 Health Service Act) as a health professional short-
12 age area as identified by the Secretary prior to the
13 beginning of such year, in addition to the amount
14 otherwise paid under this part, there also shall be
15 paid to the physician (or to an employer or facility
16 in the cases described in clause (A) of section
17 1842(b)(6)) (on a monthly or quarterly basis) from
18 the Federal Supplementary Medical Insurance Trust
19 Fund an amount equal to 10 percent of the payment
20 amount for the service under this part; and

21 “(B) specified health services (as defined in
22 paragraph (5)) furnished in a year to an individual,
23 who is covered under the insurance program estab-
24 lished by this part and who incurs expenses for such
25 services, in an area that is designated (under such

1 section 332(a)(1)(A)) as a mental health profes-
2 sional shortage area as identified by the Secretary
3 prior to the beginning of such year, in addition to
4 the amount otherwise paid under this part, there
5 also shall be paid to the physician or applicable
6 practitioner (as defined in paragraph (6)) (or to an
7 employer or facility in the cases described in clause
8 (A) of section 1842(b)(6)) (on a monthly or quar-
9 terly basis) from such Trust Fund an amount equal
10 to 15 percent of the payment amount for the service
11 under this part.”;

12 (2) in paragraph (2)—

13 (A) by striking “in paragraph (1)” and in-
14 serting “in subparagraph (A) or (B) of para-
15 graph (1)”;

16 (B) by inserting “or, in the case of speci-
17 fied health services, the physician or applicable
18 practitioner” after “physician”;

19 (3) in paragraph (3), by striking “in paragraph
20 (1)” and inserting “in subparagraph (A) or (B) of
21 paragraph (1)”;

22 (4) in paragraph (4)—

23 (A) in subparagraph (B), by inserting “or
24 applicable practitioner” after “physician”; and

1 (B) in subparagraph (C), by inserting “or
2 applicable practitioner” after “physician”; and
3 (5) by adding at the end the following new
4 paragraphs:

5 “(5) In this subsection, the term ‘specified health
6 services’ means services otherwise covered under this part
7 that are furnished on or after January 1, 2026, by a phy-
8 sician or an applicable practitioner to an individual—

9 “(A) for purposes of diagnosis, evaluation, or
10 treatment of a mental health disorder, as determined
11 by the Secretary; or

12 “(B) with a substance use disorder diagnosis
13 for purposes of treatment of such disorder or co-oc-
14 ccurring mental health disorder, as determined by the
15 Secretary.

16 “(6) In this subsection, the term ‘applicable practi-
17 tioner’ means the following:

18 “(A) A physician assistant, nurse practitioner,
19 or clinical nurse specialist (as defined in section
20 1861(aa)(5)).

21 “(B) A clinical social worker (as defined in sec-
22 tion 1861(hh)(1)).

23 “(C) A clinical psychologist (as defined by the
24 Secretary for purposes of section 1861(ii)).

1 “(D) A marriage and family therapist (as de-
2 fined in section 1861(lll)(2)).

3 “(E) A mental health counselor (as defined in
4 section 1861(lll)(4)).”.

5 **SEC. 102. IMPROVED ACCESS TO MENTAL HEALTH SERV-**
6 **ICES UNDER THE MEDICARE PROGRAM.**

7 (a) ACCESS TO CLINICAL SOCIAL WORKER SERVICES
8 PROVIDED TO RESIDENTS OF SKILLED NURSING FACILI-
9 TIES.—

10 (1) EXCLUSION OF CLINICAL SOCIAL WORKER
11 SERVICES FROM THE SKILLED NURSING FACILITY
12 PROSPECTIVE PAYMENT SYSTEM.—Section
13 1888(e)(2)(A)(iii) of the Social Security Act (42
14 U.S.C. 1395yy(e)(2)(A)(iii)) is amended by adding
15 at the end the following new subclause:

16 “(VII) Clinical social worker
17 services (as defined in section
18 1861(hh)(2)).”.

19 (2) CONFORMING AMENDMENT.—Section
20 1861(hh)(2) of the Social Security Act (42 U.S.C.
21 1395x(hh)(2)) is amended by striking “and other
22 than services furnished to an inpatient of a skilled
23 nursing facility which the facility is required to pro-
24 vide as a requirement for participation”.

1 (b) ACCESS TO THE COMPLETE SCOPE OF CLINICAL
2 SOCIAL WORKER SERVICES.—Section 1861(hh)(2) of the
3 Social Security Act (42 U.S.C. 1395x(hh)(2)), as amended
4 by subsection (a)(2), is amended by striking “for the diag-
5 nosis and treatment of mental illnesses (other than serv-
6 ices furnished to an inpatient of a hospital)” and inserting
7 “, including services for the diagnosis and treatment of
8 mental illnesses or services for health behavior assessment
9 and intervention (identified as of January 1, 2023, by
10 HCPCS codes 96160 and 96161 (and any succeeding
11 codes)), but not including services furnished to an inpa-
12 tient of a hospital.”.

13 (c) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to items and services furnished on
15 or after January 1, 2026.

16 **SEC. 103. CLARIFYING COVERAGE OF OCCUPATIONAL**
17 **THERAPY UNDER THE MEDICARE PROGRAM.**

18 Not later than 1 year after the date of enactment
19 of this Act, the Secretary of Health and Human Services
20 shall use existing communication mechanisms to provide
21 education and outreach to stakeholders about the Medi-
22 care Benefit Policy Manual with respect to occupational
23 therapy services furnished to individuals under the Medi-
24 care program for the treatment of a substance use or men-

1 tal health disorder diagnosis using applicable Healthcare
2 Common Procedure Coding System (HCPCS) codes.

3 **SEC. 104. MEDICARE INCENTIVES FOR BEHAVIORAL**
4 **HEALTH INTEGRATION WITH PRIMARY CARE.**

5 (a) INCENTIVES.—

6 (1) IN GENERAL.—Section 1848(b) of the So-
7 cial Security Act (42 U.S.C. 1395w-4(b)) is amend-
8 ed by adding at the end the following new para-
9 graph:

10 “(13) INCENTIVES FOR BEHAVIORAL HEALTH
11 INTEGRATION.—

12 “(A) IN GENERAL.—For services described
13 in subparagraph (B) that are furnished during
14 2026, 2027, or 2028, instead of the payment
15 amount that would otherwise be determined
16 under this section for such year, the payment
17 amount shall be equal to the applicable percent
18 (as defined in subparagraph (C)) of such pay-
19 ment amount for such year.

20 “(B) SERVICES DESCRIBED.—The services
21 described in this subparagraph are services
22 identified, as of January 1, 2023, by HCPCS
23 codes 99484, 99492, 99493, 99494, and G2214
24 (and any successor or similar codes as deter-
25 mined appropriate by the Secretary).

1 “(C) APPLICABLE PERCENT.—In this
2 paragraph, the term ‘applicable percent’ means,
3 with respect to a service described in subpara-
4 graph (A), the following:

5 “(i) For services furnished during
6 2026 , 175 percent.

7 “(ii) For services furnished during
8 2027, 150 percent.

9 “(iii) For services furnished during
10 2028, 125 percent.”.

11 (2) WAIVER OF BUDGET NEUTRALITY.—Section
12 1848(c)(2)(B)(iv) of such Act (42 U.S.C. 1395w-
13 4(c)(2)(B)(iv)) is amended—

14 (A) in subclause (V), by striking “and” at
15 the end;

16 (B) in subclause (VI), by striking the pe-
17 riod at the end and inserting “; and” and

18 (C) by adding at the end the following new
19 subclause:

20 “(VII) the increase in payment
21 amounts as a result of the application
22 of subsection (b)(13) shall not be
23 taken into account in applying clause
24 (ii)(II) for 2026, 2027, or 2028.”.

1 (b) TECHNICAL ASSISTANCE FOR THE ADOPTION OF
2 BEHAVIORAL HEALTH INTEGRATION.—

3 (1) IN GENERAL.—Not later than January 1,
4 2025, the Secretary of Health and Human Services
5 (in this subsection referred to as the “Secretary”)
6 shall enter into contracts or agreements with appro-
7 priate entities to offer technical assistance to pri-
8 mary care practices that are seeking to adopt behav-
9 ioral health integration models in such practices.

10 (2) BEHAVIORAL HEALTH INTEGRATION MOD-
11 ELS.—For purposes of paragraph (1), behavioral
12 health integration models include the Collaborative
13 Care Model (with services identified as of January
14 1, 2023, by HCPCS codes 99492, 99493, 99494,
15 and G2214 (and any successor codes)), the Primary
16 Care Behavioral Health model (with services identi-
17 fied as of January 1, 2023, by HCPCS code 99484
18 (and any successor code)), and other models identi-
19 fied by the Secretary.

20 (3) IMPLEMENTATION.—Notwithstanding any
21 other provision of law, the Secretary may implement
22 the provisions of this subsection by program instruc-
23 tion or otherwise.

24 (4) FUNDING.—In addition to amounts other-
25 wise available, there is appropriated to the Secretary

1 for fiscal year 2024, out of any money in the Treas-
2 ury not otherwise appropriated, \$5,000,000, to re-
3 main available until expended, for purposes of car-
4 rying out this subsection.

5 **SEC. 105. ESTABLISHMENT OF MEDICARE INCIDENT TO**
6 **MODIFIER FOR MENTAL HEALTH SERVICES**
7 **FURNISHED THROUGH TELEHEALTH.**

8 Section 1834(m)(7) of the Social Security Act (42
9 U.S.C. 1395m(m)(7)) is amended by adding at the end
10 the following new subparagraph:

11 “(C) ESTABLISHMENT OF INCIDENT TO
12 MODIFIER FOR MENTAL HEALTH SERVICES
13 FURNISHED THROUGH TELEHEALTH.—Not
14 later than 2 years after the date of the enact-
15 ment of this subparagraph, the Secretary shall
16 establish requirements to include a code or
17 modifier, as determined appropriate by the Sec-
18 retary, on claims for mental health services fur-
19 nished through telehealth under this paragraph
20 that are furnished by auxiliary personnel (as
21 defined in section 410.26(a)(1) of title 42, Code
22 of Federal Regulations, or any successor regula-
23 tion) and billed incident to a physician or prac-
24 titioner’s professional services.”

1 **SEC. 106. GUIDANCE ON FURNISHING BEHAVIORAL**
2 **HEALTH SERVICES VIA TELEHEALTH TO IN-**
3 **DIVIDUALS WITH LIMITED ENGLISH PRO-**
4 **FICIENCY UNDER MEDICARE PROGRAM.**

5 Not later than 1 year after the date of the enactment
6 of this section, the Secretary of Health and Human Serv-
7 ices shall issue and disseminate, or update and revise as
8 applicable, guidance on the following:

9 (1) Best practices for providers to work with in-
10 terpreters to furnish behavioral health services via
11 video-based and audio-only telehealth, when video-
12 based telehealth is not an option.

13 (2) Best practices on integrating the use of
14 video platforms that enable multi-person video calls
15 into behavioral health services furnished via tele-
16 health.

17 (3) Best practices on teaching patients, espe-
18 cially those with limited English proficiency, to use
19 video-based telehealth platforms.

20 (4) Best practices for providing patient mate-
21 rials, communications, and instructions in multiple
22 languages, including text message appointment re-
23 minders and prescription information.

1 **SEC. 107. ENSURING TIMELY COMMUNICATION REGARDING**
2 **TELEHEALTH AND INTERSTATE LICENSURE**
3 **REQUIREMENTS.**

4 The Secretary of Health and Human Services shall
5 provide information—

6 (1) on licensure requirements for furnishing
7 telehealth services under titles XVIII and XIX of
8 the Social Security Act (42 U.S.C. 1395 et seq.;
9 1396 et seq.); and

10 (2) clarifying the extent to which licenses
11 through an interstate license compact pathway can
12 qualify as valid and full licenses for the purposes of
13 meeting Federal licensure requirements under such
14 titles.

15 **SEC. 108. FACILITATING ACCESSIBILITY FOR BEHAVIORAL**
16 **HEALTH SERVICES FURNISHED THROUGH**
17 **TELEHEALTH.**

18 The Secretary of Health and Human Services shall
19 provide regular updates to guidance to facilitate the acces-
20 sibility of behavioral health services furnished through
21 telehealth for the visually and hearing impaired.

22 **SEC. 109. REQUIRING ENHANCED & ACCURATE LISTS OF**
23 **(REAL) HEALTH PROVIDERS ACT.**

24 (a) IN GENERAL.—Section 1852(c) of the Social Se-
25 curity Act (42 U.S.C. 1395w-22(c)) is amended—

26 (1) in paragraph (1)(C)—

1 (A) by striking “plan, and any” and insert-
2 ing “plan, any”; and

3 (B) by inserting the following before the
4 period: “, and, in the case of a network-based
5 MA plan (as defined in paragraph (3)(C)), for
6 plan year 2026 and subsequent plan years, the
7 information described in paragraph (3)(B)”;
8 and

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

11 “(3) PROVIDER DIRECTORY ACCURACY.—

12 “(A) IN GENERAL.—For plan year 2026
13 and subsequent plan years, each MA organiza-
14 tion offering a network-based MA plan shall,
15 for each network-based MA plan offered by the
16 organization—

17 “(i) maintain, on a publicly available
18 internet website, an accurate provider di-
19 rectory that includes the information de-
20 scribed in subparagraph (B);

21 “(ii) not less frequently than once
22 every 90 days (or, in the case of a hospital
23 or any other facility determined appro-
24 priate by the Secretary, at a lesser fre-
25 quency specified by the Secretary but in no

1 case less frequently than once every 12
2 months), verify the provider directory in-
3 formation of each provider listed in such
4 directory and, if applicable, update such
5 provider directory information;

6 “(iii) if the organization is unable to
7 verify such information with respect to a
8 provider, include in such directory an indi-
9 cation that the information of such pro-
10 vider may not be up to date;

11 “(iv) remove a provider from such di-
12 rectory within 5 business days if the orga-
13 nization determines that the provider is no
14 longer a provider participating in the net-
15 work of such plan; and

16 “(v) meet such other requirements as
17 the Secretary may specify.

18 “(B) PROVIDER DIRECTORY INFORMA-
19 TION.—The information described in this sub-
20 paragraph is information enrollees may need to
21 access covered benefits from a provider with
22 which such plan has an agreement for fur-
23 nishing items and services covered under such
24 plan such as name, specialty, contact informa-
25 tion, primary office or facility address, avail-

1 ability, accommodations for people with disabil-
2 ities, cultural and linguistic capabilities, and
3 telehealth capabilities.

4 “(C) NETWORK-BASED MA PLAN DE-
5 FINED.—In this paragraph, the term ‘network-
6 based MA plan’ means an MA plan that has a
7 network of providers that contract or make ar-
8 rangements with the MA organization offering
9 the plan to furnish items and services covered
10 under such plan.”.

11 (b) ACCOUNTABILITY FOR PROVIDER DIRECTORY
12 ACCURACY.—

13 (1) COST SHARING FOR SERVICES FURNISHED
14 BASED ON RELIANCE ON INCORRECT PROVIDER NET-
15 WORK INFORMATION.—Section 1852(d) of the Social
16 Security Act (42 U.S.C. 1395w-22(d)) is amended
17 by adding at the end the following new paragraph:

18 “(7) COST SHARING FOR SERVICES FURNISHED
19 BASED ON RELIANCE ON INCORRECT PROVIDER NET-
20 WORK INFORMATION.—

21 “(A) IN GENERAL.—For plan year 2026
22 and subsequent plan years, if an enrollee is fur-
23 nished a covered item or service by a provider
24 that is not participating in the network of a
25 network-based MA plan (as defined in sub-

1 section (c)(3)(C)) but is listed in the provider
2 directory of such plan (as required to be pro-
3 vided to an enrollee pursuant to subsection
4 (c)(1)(C)) on the date on which the appoint-
5 ment is made, the MA organization offering
6 such plan shall ensure that the enrollee is only
7 responsible for the amount of cost sharing that
8 would apply if such provider had been partici-
9 pating in the network of such plan.

10 “(B) NOTIFICATION REQUIREMENT.—For
11 plan year 2026 and subsequent plan years, each
12 MA organization that offers a network-based
13 MA plan shall—

14 “(i) notify enrollees of their cost-shar-
15 ing protections under this paragraph and
16 make such notifications, to the extent
17 practicable, by not later than the first day
18 of an annual, coordinated election period
19 under section 1851(e)(3) with respect to a
20 year;

21 “(ii) include information regarding
22 such cost-sharing protections in the pro-
23 vider directory of each network-based MA
24 plan offered by the MA organization.; and

1 “(iii) notify enrollees of their cost-
2 sharing protections under this paragraph
3 in an explanation of benefits.”.

4 (2) REQUIRED PROVIDER DIRECTORY ACCU-
5 RACY ANALYSIS AND REPORTS.—

6 (A) IN GENERAL.—Section 1857(e) of the
7 Social Security Act (42 U.S.C. 1395w-27(e)) is
8 amended by adding at the end the following
9 new paragraph:

10 “(6) PROVIDER DIRECTORY ACCURACY ANAL-
11 YSIS AND REPORTS.—

12 “(A) IN GENERAL.—Beginning with plan
13 years beginning on or after January 1, 2026,
14 subject to subparagraph (C), a contract under
15 this section with an MA organization shall re-
16 quire the organization, for each network-based
17 MA plan (as defined in section 1852(e)(3)(C))
18 offered by the organization, to annually—

19 “(i) conduct an analysis of the accu-
20 racy of the provider directory of such plan
21 (including provider types with high inaccu-
22 racy rates, such as providers specializing in
23 mental health and substance use disorder
24 treatment, as determined by the Sec-
25 retary); and

1 “(ii) submit a report to the Secretary
2 containing the results of such analysis and
3 other information required by the Sec-
4 retary.

5 “(B) CONSIDERATIONS.—In establishing
6 requirements with respect to analysis and re-
7 porting under this paragraph, the Secretary
8 shall take into account—

9 “(i) data sources maintained by MA
10 organizations;

11 “(ii) publicly available data sets;

12 “(iii) the administrative burden on
13 plans and providers; and

14 “(iv) the relative importance of cer-
15 tain directory information on enrollee abil-
16 ity to access to care.

17 “(C) EXCEPTION.—The Secretary may
18 waive the requirements of this paragraph in the
19 case of a network-based MA plan with low en-
20 rollment (as defined by the Secretary).

21 “(D) TRANSPARENCY.—Beginning with
22 plan years beginning on or after January 1,
23 2027, the Secretary shall post accuracy scores
24 (as reported under subparagraph (A)), in a ma-

1 chine readable file, on the internet website of
2 the Centers for Medicare & Medicaid Services.

3 “(E) IMPLEMENTATION.—The Secretary
4 shall implement this paragraph through notice
5 and comment rulemaking.”

6 (B) PROVISION OF INFORMATION TO
7 BENEFICIARIES.—Section 1851(d)(4) of the So-
8 cial Security Act (42 U.S.C. 1395w–21(d)(4))
9 is amended by adding at the end the following
10 new subparagraph:

11 “(F) PROVIDER DIRECTORY.—Beginning
12 with plan years beginning on or after January
13 1, 2027, information regarding the accuracy of
14 the plan’s provider directory (as reported under
15 section 1857(e)(6)) on the plan’s provider direc-
16 tory.”

17 (C) FUNDING.—In addition to amounts
18 otherwise available, there is appropriated to the
19 Centers for Medicare & Medicaid Services Pro-
20 gram Management Account, out of any money
21 in the Treasury not otherwise appropriated,
22 \$1,000,000 for fiscal year 2026, to remain
23 available until expended, to carry out the
24 amendments made by this paragraph.

25 (3) GAO STUDY AND REPORT.—

1 (A) ANALYSIS.—The Comptroller General
2 of the United States (in this paragraph referred
3 to as the “Comptroller General”) shall conduct
4 study of the implementation of the amendments
5 made by paragraphs (1) and (2). To the extent
6 data are available and reliable, such study shall
7 include an analysis of—

8 (i) the use of protections required
9 under section 1852(d)(7) of the Social Se-
10 curity Act, as added by paragraph (1);

11 (ii) the provider directory accuracy
12 scores trends under section 1857(e)(6) of
13 the Social Security Act (as added by para-
14 graph (2)(A)), both overall and among pro-
15 viders specializing in mental health and
16 substance disorder treatment;

17 (iii) provider response rates by plan
18 verification methods; and

19 (iv) other items determined appro-
20 priate by the Comptroller General.

21 (B) REPORT.—Not later than January 15,
22 2031, the Comptroller General shall submit to
23 Congress a report containing the results of the
24 study conducted under subparagraph (A), to-
25 gether with recommendations for such legisla-

1 tion and administrative action as the Comp-
2 troller General determines appropriate.

3 (c) GUIDANCE ON MAINTAINING ACCURATE PRO-
4 VIDER DIRECTORIES.—

5 (1) STAKEHOLDER MEETING.—

6 (A) IN GENERAL.—Not later than 3
7 months after the date of enactment of this Act,
8 the Secretary of Health and Human Services
9 (referred to in this subsection as the “Sec-
10 retary”) shall convene a public stakeholder
11 meeting to receive public comments on main-
12 taining accurate provider directories for Medi-
13 care Advantage plans under part C of title
14 XVIII of the Social Security Act (42 U.S.C.
15 1395w–21 et seq.), including approaches for re-
16 ducing administrative burden such as data
17 standardization and best practices to maintain
18 provider directory information.

19 (B) PARTICIPANTS.—The meeting under
20 subparagraph (A) shall include representatives
21 from the Medicare program under title XVIII
22 of the Social Security Act (42 U.S.C. 1395 et
23 seq.) and the Office of the National Coordinator
24 for Health Information Technology, health care
25 providers, companies that specialize in relevant

1 technologies, health insurers, and patient advo-
2 cates.

3 (2) GUIDANCE.—Not later than 12 months
4 after the date of enactment of this Act, the Sec-
5 retary shall issue guidance to Medicare Advantage
6 organizations offering Medicare Advantage plans
7 under part C of title XVIII of the Social Security
8 Act (42 U.S.C. 1395w–21 et seq.) on maintaining
9 accurate provider directories for such plans, taking
10 into consideration comments submitted during the
11 stakeholder meeting under paragraph (1). Such
12 guidance may include the following, as determined
13 appropriate by the Secretary:

14 (A) Best practices for Medicare Advantage
15 plans on how to work with providers to main-
16 tain the accuracy of provider directories of such
17 plans and reduce provider and Medicare Advan-
18 tage plan burden.

19 (B) Information on data sets and data
20 sources with information that could be used by
21 such plans to maintain accurate provider direc-
22 tories.

23 (C) Approaches for utilizing data sources
24 maintained by MA organizations and publicly

1 available data sets to maintain accurate pro-
2 vider directories.

3 (D) Information for providers on when to
4 update the National Plan and Provider Enu-
5 meration System.

6 (E) Information that may be useful for
7 beneficiaries to assess plan networks when se-
8 lecting a plan and accessing providers partici-
9 pating in plan networks during the plan year.

10 **SEC. 110. GUIDANCE TO STATES ON STRATEGIES UNDER**
11 **MEDICAID AND CHIP TO INCREASE MENTAL**
12 **HEALTH AND SUBSTANCE USE DISORDER**
13 **CARE PROVIDER CAPACITY.**

14 Not later than 12 months after the date of enactment
15 of this Act, the Secretary of Health and Human Services
16 shall issue guidance to States on strategies under Med-
17 icaid and the Children’s Health Insurance Program
18 (CHIP) to increase access to mental health and substance
19 use disorder care providers that participate in Medicaid
20 or CHIP, which may include education, training, recruit-
21 ment, and retention of such providers, with a focus on im-
22 proving the capacity of the mental health and substance
23 use disorder care workforce in rural and underserved areas
24 by increasing the number, type, and capacity of providers.
25 Such guidance shall include, but not be limited to—

1 (1) best practices from States that have used
2 Medicaid or CHIP waivers and authorities under ti-
3 tles XI, XIX, and XXI of such Act (42 U.S.C. 1301
4 et seq., 1396 et seq., 1397aa et seq.) for such pur-
5 poses;

6 (2) best practices related to expanding the
7 availability of community-based mental health and
8 substance use disorder services under Medicaid and
9 CHIP, including through the participation of para-
10 professionals with behavioral health expertise, and
11 review of State practices for leveraging paraprofes-
12 sionals within State scope of practice requirements
13 as well as State supervision requirements, such as
14 peer support specialists and clinicians with baccalaureate
15 degrees; and

16 (3) best practices related to financing, sup-
17 porting, and expanding the education and training of
18 providers of mental health and substance use dis-
19 order services to increase the workforce of such pro-
20 viders who participate in Medicaid and CHIP, in-
21 cluding by supporting on-site training in the clinical
22 setting and innovative public-private partnerships.

1 **SEC. 111. GUIDANCE TO STATES ON SUPPORTING MENTAL**
2 **HEALTH SERVICES AND SUBSTANCE USE DIS-**
3 **ORDER CARE FOR CHILDREN AND YOUTH.**

4 (a) GUIDANCE ON INCREASING THE AVAILABILITY
5 AND PROVISION OF MENTAL HEALTH SERVICES AND
6 SUBSTANCE USE DISORDER CARE UNDER MEDICAID AND
7 CHIP.—Not later than 12 months after the date of enact-
8 ment of this Act, the Secretary shall issue guidance to
9 States regarding opportunities to improve the availability
10 and provision of mental health services and substance use
11 disorder care through Medicaid and CHIP for children
12 and youth. Such guidance shall address the following:

13 (1) The design and implementation of a con-
14 tinuum of benefits for children and youth with sig-
15 nificant mental health conditions and substance use
16 disorders covered by Medicaid and CHIP, including
17 the role of EPSDT and what is required of States
18 to ensure compliance with EPSDT.

19 (2) Strategies to facilitate access to mental
20 health services and substance use disorder care
21 under Medicaid and CHIP that are delivered in the
22 home or in community-based settings for children
23 and youth.

24 (3) Strategies to facilitate access to mental
25 health services and substance use disorder care

1 under Medicaid and CHIP for children and youth
2 who—

3 (A) are at risk for having a significant
4 mental health condition or substance use dis-
5 order;

6 (B) have a significant mental health condi-
7 tion or substance use disorder; or

8 (C) have an intellectual or developmental
9 disability.

10 (4) Strategies to promote screening for mental
11 health and substance use disorder needs of children
12 and youth, including children and youth provided, or
13 at risk for needing, child welfare services, in coordi-
14 nation with providers, managed care organizations
15 (as defined by the Secretary), prepaid inpatient
16 health plans (as defined by the Secretary), prepaid
17 ambulatory health plans (as defined by the Sec-
18 retary), and schools (as defined by the Secretary).

19 (5) Strategies for supporting the provision of
20 culturally competent, developmentally appropriate,
21 and trauma-informed mental health services and
22 substance use disorder care to children and youth.

23 (6) Strategies for providing early prevention,
24 intervention, and screening services, including for
25 children and youth at higher risk for having mental

1 health or substance use disorder needs, children and
2 youth who do not have a mental health or substance
3 use disorder diagnosis, children and youth provided,
4 or at risk for needing, child welfare services, and
5 children at risk of first episode psychosis.

6 (7) Best practices from State Medicaid and
7 CHIP programs in expanding access to mental
8 health services and substance use disorder care for
9 children and youth, including children and youth
10 that are part of underserved communities and chil-
11 dren and youth with co-occurring intellectual dis-
12 ability or autism spectrum disorder.

13 (8) Strategies to coordinate services and fund-
14 ing provided under parts B and E of title IV of the
15 Social Security Act (42 U.S.C. 621 et seq., 670 et
16 seq.), and other funding sources at the discretion of
17 the Secretary, with services for which Federal finan-
18 cial participation is available under Medicaid or
19 CHIP, to support improved access to comprehensive
20 mental health services and substance use disorder
21 care for children and youth provided, or at risk for
22 needing, child welfare services.

23 (b) CONSULTATION.—The Secretary shall consult
24 with the Administrator of the Centers for Medicare &
25 Medicaid Services, the Assistant Secretary for the Admin-

1 istration for Children and Families, the Assistant Sec-
2 retary for Mental Health and Substance Use, and the Di-
3 rector of the Office of National Drug Control Policy with
4 respect to the guidance issued under subsection (a).

5 (c) DEFINITIONS.—In this section:

6 (1) EPSDT.—The term “EPSDT” means early
7 and periodic screening, diagnostic, and treatment
8 services under Medicaid in accordance with sections
9 1902(a)(43), 1905(a)(4)(B), and 1905(r) of the So-
10 cial Security Act (42 U.S.C. 1396a(a)(43),
11 1396d(a)(4)(B), 1396d(r)).

12 (2) SECRETARY.—The term “Secretary” means
13 the Secretary of Health and Human Services.

14 (3) STATE.—The term “State” has the mean-
15 ing given that term in section 1101(a)(1) of the So-
16 cial Security Act (42 U.S.C. 1301(a)(1)) for pur-
17 poses of titles XIX and XXI of such Act.

18 **SEC. 112. RECURRING ANALYSIS AND PUBLICATION OF**
19 **MEDICAID HEALTH CARE DATA RELATED TO**
20 **MENTAL HEALTH SERVICES.**

21 (a) IN GENERAL.—The Secretary, on a biennial
22 basis, shall link, analyze, and publish on a publicly avail-
23 able website Medicaid data reported by States through the
24 Transformed Medicaid Statistical Information System (T-
25 MSIS) (or a successor system) relating to mental health

1 services provided to individuals enrolled in Medicaid. Such
2 enrollee information shall be de-identified of any person-
3 ally identifying information, shall adhere to privacy stand-
4 ards established by the Department of Health and Human
5 Services, and shall be aggregated to protect the privacy
6 of enrollees, as necessary. Each publication of such anal-
7 ysis shall include for each State available data for the fol-
8 lowing measures:

9 (1) The number and percentage of individuals
10 enrolled in the State Medicaid plan or waiver of such
11 plan in each of the major enrollment categories (as
12 defined in a letter, to be made publicly available on
13 the website of the Medicaid and CHIP Payment and
14 Access Commission, from the Medicaid and CHIP
15 Payment and Access Commission to the Secretary)
16 who have been diagnosed with a mental health con-
17 dition and whether such individuals are enrolled
18 under the State Medicaid plan or waiver of such
19 plan, including the specific waiver authority under
20 which they are enrolled, to the extent available.

21 (2) A list of the mental health treatment serv-
22 ices by each major type of service, such as coun-
23 seling, intensive home-based services, intensive care
24 coordination, crisis services tailored to children and
25 youth, youth peer support services, family-to-family

1 support, inpatient hospitalization, and other appro-
2 priate services as identified by the Secretary, for
3 which beneficiaries in each State received at least 1
4 service under the State Medicaid plan or a waiver of
5 such plan.

6 (3) The number and percentage of individuals
7 with a substance use disorder diagnosis enrolled in
8 the State Medicaid plan or waiver of such plan who
9 received services for a mental health condition under
10 such plan or waiver by each major type of service
11 specified under paragraph (2) within each major set-
12 ting type, such as outpatient, inpatient, residential,
13 and other home-based and community-based set-
14 tings.

15 (4) The number of services provided under the
16 State Medicaid plan or waiver of such plan per indi-
17 vidual with a mental health diagnosis enrolled in
18 such plan or waiver for each major type of service
19 specified under paragraph (2).

20 (5) The number and percentage of individuals
21 enrolled in the State Medicaid plan or waiver by
22 major enrollment category, who received mental
23 health services through—

24 (A) a Medicaid managed care entity (as
25 defined in section 1932(a)(1)(B) of the Social

1 Security Act (42 U.S.C. 1396u-2(a)(1)(B))),
2 including the number of such individuals who
3 received such assistance through a prepaid in-
4 patient health plan (as defined by the Sec-
5 retary) or a prepaid ambulatory health plan (as
6 defined by the Secretary);

7 (B) a fee-for-service payment model; or

8 (C) an alternative payment model, to the
9 extent available.

10 (6) The number and percentage of individuals
11 with a mental health diagnosis who received mental
12 health services in an outpatient or home-based and
13 community-based setting after receiving services in
14 an inpatient or residential setting and the number of
15 services received by such individuals in the out-
16 patient or home-based and community-based setting.

17 (7) The number and percentage of inpatient ad-
18 missions in which services for a mental health condi-
19 tion were provided to an individual enrolled in the
20 State Medicaid plan or a waiver of such plan that
21 occurred within 30 days after discharge from a hos-
22 pital or inpatient facility in which services for a
23 mental health condition previously were provided to
24 such individual, disaggregated by type of facility, to
25 the extent such information is available.

1 (8) The number of emergency department visits
2 by an individual enrolled in the State Medicaid plan
3 or a waiver of such plan for treatment of a mental
4 health condition within 7 days of such individual
5 being discharged from a hospital inpatient facility in
6 which services for a mental health condition were
7 provided, or from a mental health facility, an inde-
8 pendent psychiatric wing of acute care hospital, or
9 an intermediate care facility for individuals with in-
10 tellectual disabilities, disaggregated by type of facil-
11 ity, to the extent such information is available.

12 (9) The number and percentage of individuals
13 enrolled in the State Medicaid plan or a waiver of
14 such plan—

15 (A) who received an assessment to diag-
16 nose a mental health condition; and

17 (B) the number of mental health services
18 provided to individuals described in subpara-
19 graph (A) in the 30 days post-assessment.

20 (10) Prescription National Drug Code codes,
21 fill dates, and number of days supply of any covered
22 outpatient drug (as defined in section 1927(k)(2) of
23 the Social Security Act (42 U.S.C. 1396r-8(k)(2)) to
24 treat a mental health condition that were dispensed
25 to an individual enrolled in the State Medicaid plan

1 or waiver with an episode described in paragraph (7)
2 or (8) during any period that occurs after the indi-
3 vidual's discharge date defined in paragraph (7) or
4 (8) (as applicable), and before the admission date
5 applicable under paragraph (7) or the date of the
6 emergency department visit applicable under para-
7 graph (8).

8 (b) PUBLICATION.—

9 (1) IN GENERAL.—Not later than 18 months
10 after the date of enactment of this Act, the Sec-
11 retary shall make publicly available the first analysis
12 required by subsection (a).

13 (2) USE OF T-MSIS DATA.—The report required
14 under paragraph (1) and updates required under
15 paragraph (3) shall—

16 (A) use data and definitions from the
17 Transformed Medicaid Statistical Information
18 System (“T-MSIS”) (or a successor system)
19 data set that is no more than 12 months old on
20 the date that the report or update is published;
21 and

22 (B) as appropriate, include a description
23 with respect to each State of the quality and
24 completeness of the data and caveats describing
25 the limitations of the data reported to the Sec-

1 retary by the State that is sufficient to commu-
2 nicate the appropriate uses for the information.

3 (3) REVISED PUBLICATION.—Not later than 3
4 years after the date of enactment of this Act, the
5 Secretary shall publish a revised publication of the
6 analysis required by subsection (a) that allows for a
7 research-ready and publicly accessible interface of
8 the publication that is developed after consultation
9 with stakeholders on the usability of the data con-
10 tained in the publication.

11 (c) MAKING PERMANENT THE REQUIREMENT TO AN-
12 NUALLY UPDATE THE SUD DATA BOOK.—Section 1015
13 of the SUPPORT for Patients and Communities Act
14 (Public Law 115–271) is amended—

15 (1) in subsection (a)(3), by striking “through
16 2024”; and

17 (2) in subsection (b), by adding at the end the
18 following new paragraph:

19 “(4) PUBLICATION OF DATA.—

20 “(A) IN GENERAL.—The Secretary shall
21 publish in the Federal Register a system of
22 records notice that modifies the system of
23 records notice required under paragraph (1) to
24 provide that—

1 “(i) the data specified in paragraph
2 (2) shall be published on a publicly avail-
3 able website; and

4 “(ii) such data shall be de-identified
5 of any personally identifying information,
6 shall adhere to privacy standards estab-
7 lished by the Department of Health and
8 Human Services, and shall be aggregated
9 to protect the privacy of enrollees, as nec-
10 essary.

11 “(B) INITIATION OF MODIFIED DATA-
12 SHARING ACTIVITIES.—Not later than **[Janu-**
13 **ary 1, 2025,]** the Secretary shall initiate the
14 data sharing activities outlined in the notice re-
15 quired under paragraph (1), as modified pursu-
16 ant to this paragraph.”.

17 (d) DEFINITIONS.—In this section:

18 (1) SECRETARY.—The term “Secretary” means
19 the Secretary of Health and Human Services.

20 (2) STATE.—The term “State” has the mean-
21 ing given that term in section 1101(a)(1) of the So-
22 cial Security Act (42 U.S.C. 1301(a)(1)) for pur-
23 poses of title XIX of such Act.

1 **SEC. 113. GUIDANCE TO STATES ON SUPPORTING MENTAL**
2 **HEALTH SERVICES OR SUBSTANCE USE DIS-**
3 **ORDER CARE INTEGRATION WITH PRIMARY**
4 **CARE IN MEDICAID AND CHIP.**

5 (a) ANALYSIS REGARDING CARE INTEGRATION.—

6 Not later than 18 months after the date of enactment of
7 this Act, the Secretary shall conduct an analysis of Med-
8 icaid and CHIP regarding clinical outcomes among dif-
9 ferent models of integration of mental health services or
10 substance use disorder care within the primary care set-
11 ting. Such analysis shall—

12 (1) consider different models for how mental
13 health services or substance use disorder care is de-
14 livered and integrated within the primary care set-
15 ting, including when providers operating in an inte-
16 grated model are physically located in the same
17 practice or building, when at least 1 provider in an
18 integrated care model is available via telehealth, and
19 when primary care, mental health, or substance use
20 disorder care providers seek education and consulta-
21 tion from other providers through electronic modalities; and

22 (2) evaluate—

23 (A) the use of different payment meth-
24 odologies, such as bundled payments and value-
25 based payment arrangements; and
26

1 (B) the use and quality of services to co-
2 ordinate care, including but not limited to case
3 management, care coordination, enhanced care
4 coordination, and enhanced care management,
5 for mental health services and for substance use
6 disorder care.

7 (b) GUIDANCE.—Not later than 12 months after the
8 Secretary completes the analysis required under sub-
9 section (a), the Secretary shall issue guidance to States
10 on supporting integration of mental health services or sub-
11 stance use disorder care with primary care under Medicaid
12 and CHIP. Such guidance shall be informed by the anal-
13 ysis required under subsection (a) and, at minimum, shall
14 do the following:

15 (1) Provide an overview of State options for
16 adopting and expanding value-based payment ar-
17 rangements and alternative payment models, includ-
18 ing accountable care organizations and other shared
19 savings programs, that integrate mental health serv-
20 ices or substance use disorder care with primary
21 care.

22 (2) Describe opportunities for States to use and
23 align existing authorities and resources to finance
24 integration of mental health services or substance
25 use disorder care with primary care, including with

1 respect to the use of electronic health records in
2 mental health care settings and in substance use dis-
3 order care settings.

4 (3) Describe strategies to support integration of
5 mental health services or substance use disorder care
6 with primary care through the use of non-clinical
7 professionals and paraprofessionals, including
8 trained peer support specialists.

9 (4) Provide examples of specific strategies and
10 models designed to support integration of mental
11 health services or substance use disorder care with
12 primary care for differing age groups, including chil-
13 dren and youth, and individuals over the age of 65.

14 (5) Describe options for assessing the clinical
15 outcomes of differing models and strategies for inte-
16 gration of mental health services or substance use
17 disorder care with primary care.

18 (c) INTEGRATION OF MENTAL HEALTH SERVICES OR
19 SUBSTANCE USE DISORDER CARE WITH PRIMARY
20 CARE.—For purposes of subsections (a) and (b), integra-
21 tion of mental health services or substance use disorder
22 care with primary care may include (and shall not be lim-
23 ited to, including when furnished via telehealth, when ap-
24 propriate)—

1 (1) adherence to the collaborative care model or
2 primary care behavioral health model for behavioral
3 health integration;

4 (2) use of behavioral health integration models
5 primarily intended for pediatric populations with
6 non-severe mental health needs that are focused on
7 prevention and early detection and intervention
8 methods through a multidisciplinary collaborative be-
9 havioral health team approach co-managed with pri-
10 mary care, to include same-day access to family-fo-
11 cused mental health treatment services;

12 (3) having mental health providers or substance
13 use disorder providers physically co-located in a pri-
14 mary care setting with same-day visit availability;

15 (4) implementing or maintaining enhanced care
16 coordination or targeted case management which in-
17 cludes regular interactions between and within care
18 teams;

19 (5) providing mental health or substance use
20 disorder screening and follow-up assessments, inter-
21 ventions, or services within the same practice or fa-
22 cility as a primary care or physical service setting;

23 (6) the use of assertive community treatment
24 that is integrated with or facilitated by a primary
25 care practice; and

1 inserting “subject to subsection (jj),” before
2 “any such payments”; and

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

5 “(jj) STATE OPTION TO PROVIDE MEDICAL ASSIST-
6 ANCE TO CERTAIN INMATES WITH A SUBSTANCE USE
7 DISORDER PENDING DISPOSITION OF CHARGES.—

8 “(1) IN GENERAL.—Subject to paragraph (2), a
9 State may elect to provide, and, notwithstanding the
10 subdivision (A) following the last numbered para-
11 graph of subsection (a), receive Federal financial
12 participation for, medical assistance for an indi-
13 vidual who—

14 “(A) is an inmate of a public institution
15 (as defined in section 1902(nn)(3)) pending dis-
16 position of charges; and

17 “(B) has been diagnosed with a substance
18 use disorder.

19 “(2) LIMITATION; CONDITIONS.—

20 “(A) LIMITATION.—A State may only re-
21 ceive Federal financial participation for medical
22 assistance provided to an individual described in
23 paragraph (1) during the 7-day period that be-
24 gins on the first day that the individual is an
25 inmate of a public institution.

1 “(B) CONDITIONS.—A State may only re-
2 ceive Federal financial participation for medical
3 assistance provided to an individual described in
4 paragraph (1) if—

5 “(i) the State has elected to not ter-
6 minate eligibility for medical assistance
7 under the State plan for individuals on the
8 basis that they are inmates of public insti-
9 tutions (but may suspend coverage during
10 the period an individual is such an in-
11 mate); and

12 “(ii) the diagnosis that the covered in-
13 dividual has a substance use disorder is
14 made while the individual is an inmate of
15 the public institution by a licensed medical
16 professional using a standardized screening
17 and assessment model approved by the
18 Secretary.”.

19 (2) EFFECTIVE DATE.—The amendments made
20 by this subsection shall take effect on January 1,
21 2026.

22 (b) TECHNICAL CORRECTION AND CONFORMING
23 AMENDMENTS.—

24 (1) TECHNICAL CORRECTION.—Section
25 5122(a)(1) of the Consolidated Appropriations Act,

1 2023 (Public Law 117–328) is amended by striking
2 “after” and all that follows through the period at
3 the end and inserting “after ‘or in the case of an eli-
4 gible juvenile described in section 1902(a)(84)(D)
5 with respect to the screenings, diagnostic services,
6 referrals, and targeted case management services re-
7 quired under such section’.”.

8 (2) OTHER CONFORMING AMENDMENTS.—

9 (A) Section 1902(n)(3) of the Social Se-
10 curity Act (42 U.S.C. 1396a(n)(3)), is amend-
11 ed by striking “following” and all that follows
12 through “section 1905(a)” and inserting “fol-
13 lowing the last numbered paragraph of section
14 1905(a)”.

15 (B) The fifth sentence of section 1905(a)
16 of the Social Security Act (42 U.S.C. 1396d(a))
17 is amended by striking “paragraph (30)” and
18 inserting “the last numbered paragraph”.

19 **TITLE II—REDUCING PRESCRIP-**
20 **TION DRUG COSTS UNDER**
21 **MEDICARE AND MEDICAID**

22 **SEC. 201. ASSURING PHARMACY ACCESS AND CHOICE FOR**
23 **MEDICARE BENEFICIARIES.**

24 (a) IN GENERAL.—Section 1860D–4(b)(1) of the So-
25 cial Security Act (42 U.S.C. 1395w–104(b)(1)) is amend-

1 ed by striking subparagraph (A) and inserting the fol-
2 lowing:

3 “(A) IN GENERAL.—

4 “(i) PARTICIPATION OF ANY WILLING
5 PHARMACY.—A PDP sponsor offering a
6 prescription drug plan shall permit any
7 pharmacy that meets the standard contract
8 terms and conditions under such plan to
9 participate as a network pharmacy of such
10 plan.

11 “(ii) CONTRACT TERMS AND CONDI-
12 TIONS.—

13 “(I) IN GENERAL.—For plan
14 years beginning on or after January
15 1, 2028, in accordance with clause (i),
16 contract terms and conditions offered
17 by such PDP sponsor shall be reason-
18 able and relevant according to stand-
19 ards established by the Secretary
20 under subclause (II).

21 “(II) STANDARDS.—Not later
22 than the first Monday in April of
23 2027, the Secretary shall establish
24 standards for reasonable and relevant

1 contract terms and conditions for pur-
2 poses of this clause.

3 “(III) REQUEST FOR INFORMA-
4 TION.—Not later than January 1,
5 2025, for purposes of establishing the
6 standards under subclause (II), the
7 Secretary shall issue a request for in-
8 formation to seek input on trends in
9 prescription drug plan and network
10 pharmacy contract terms and condi-
11 tions, current prescription drug plan
12 and network pharmacy contracting
13 practices, areas in current regulations
14 or program guidance related to con-
15 tracting between prescription drug
16 plans and network pharmacies requir-
17 ing clarification or additional speci-
18 ficity, factors for consideration in de-
19 termining the reasonableness and rel-
20 evance of contract terms and condi-
21 tions between prescription drug plans
22 and network pharmacies, and other
23 issues determined appropriate by the
24 Secretary.”.

1 (b) TREATMENT OF ESSENTIAL RETAIL PHAR-
2 MACIES.—Section 1860D–4(b)(1)(C) of the Social Secu-
3 rity Act (42 U.S.C. 1395w–104(b)(1)(C)) is amended by
4 adding at the end the following new clause:

5 “(v) ESSENTIAL RETAIL PHAR-
6 MACIES.—

7 “(I) IN GENERAL.—For plan
8 years beginning on or after January
9 1, 2028, a PDP sponsor of a prescrip-
10 tion drug plan that has preferred
11 pharmacies in its network shall con-
12 tract with, as preferred pharmacies in
13 such plan’s network, at least—

14 “(aa) 80 percent of essential
15 retail pharmacies (as defined in
16 subclause (III)) in such plan’s
17 service area that are independent
18 community pharmacies (as de-
19 fined in subclause (V)(bb)); and

20 “(bb) 50 percent of essential
21 retail pharmacies in such plan’s
22 service area not described in item
23 (aa).

24 “(II) TOTAL REIMBURSEMENT
25 FOR ESSENTIAL RETAIL PHARMACIES

1 THAT ARE INDEPENDENT COMMUNITY
2 PHARMACIES.—For plan years begin-
3 ning on or after January 1, 2028,
4 total reimbursement (as defined in
5 subclause (V)(dd)) paid by a PDP
6 sponsor to an essential retail phar-
7 macy that is an independent commu-
8 nity pharmacy for a covered part D
9 drug shall not be lower than—

10 “(aa) in the case where Na-
11 tional Average Drug Acquisition
12 Cost information for such drug
13 for retail community pharmacies
14 or applicable non-retail commu-
15 nity pharmacies has been avail-
16 able under section 1927(f) for at
17 least one full plan year—

18 “(AA) if such informa-
19 tion is available for such
20 drug for retail community
21 pharmacies, the average Na-
22 tional Average Drug Acqui-
23 sition Cost for such drug for
24 retail community pharmacies
25 for the most recent plan

1 year for which such informa-
2 tion is available;

3 “(BB) in the case
4 where such information for
5 retail community pharmacies
6 is not available, the average
7 National Average Drug Ac-
8 quisition Cost for such drug
9 for applicable non-retail
10 pharmacies for the most re-
11 cent plan year for which
12 such information is avail-
13 able;

14 “(bb) in the case where Na-
15 tional Average Drug Acquisition
16 Cost information for such drug
17 under section 1927(f) is not
18 available for retail community
19 pharmacies or applicable non-re-
20 tail pharmacies, the wholesale ac-
21 quisition cost (as defined in sec-
22 tion 1847A(c)(6)(B)) for such
23 drug; and

24 “(cc) in the case where Na-
25 tional Average Drug Acquisition

1 Cost information under section
2 1927(f) is available for such drug
3 and ending on the date such sur-
4 vey information has been avail-
5 able for such drug but has not
6 been available for a full plan
7 year—

8 “(AA) the most recent
9 National Average Drug Ac-
10 quisition Cost for such drug
11 for retail community phar-
12 macies, if available; or

13 “(BB) if the informa-
14 tion specified in subitem
15 (AA) is not available, the
16 most recent National Aver-
17 age Drug Acquisition Cost
18 for such drug for applicable
19 non-retail pharmacies.

20 “(III) DEFINITION OF ESSEN-
21 TIAL RETAIL PHARMACY.—In this
22 clause, the term ‘essential retail phar-
23 macy’ means, with respect to a plan
24 year, a retail pharmacy that—

1 “(aa) is not an affiliate of a
2 pharmacy benefit manager or
3 PDP sponsor;

4 “(bb) is located in a medi-
5 cally underserved area (as des-
6 igned pursuant to section
7 330(b)(3)(A) of the Public
8 Health Service Act); and

9 “(cc) is designated as an es-
10 sential retail pharmacy by the
11 Secretary for such plan year
12 under subclause (IV).

13 “(IV) DESIGNATION OF ESSEN-
14 TIAL RETAIL PHARMACIES.—

15 “(aa) IN GENERAL.—For
16 each plan year (beginning with
17 plan year 2028), the Secretary
18 shall designate pharmacies that
19 meet the requirements specified
20 in items (aa) and (bb) of sub-
21 clause (III) as essential retail
22 pharmacies, in accordance with
23 this subclause.

24 “(bb) REQUIRED SUBMIS-
25 SIONS FROM PDP SPONSORS.—

1 For each plan year beginning
2 with plan year 2028, each PDP
3 sponsor offering a prescription
4 drug plan shall submit to the
5 Secretary, for the purposes of de-
6 termining retail pharmacies that
7 do not meet the requirement
8 specified in item (aa) of sub-
9 clause (III), a list of any retail
10 pharmacy that is an affiliate of
11 such sponsor, subject to time,
12 manner, and form requirements
13 established by the Secretary.

14 “(cc) PUBLICATION.—Not
15 later than one month prior to the
16 start of each plan year (begin-
17 ning with plan year 2028), the
18 Secretary shall list, on a publicly
19 available website of the Centers
20 for Medicare & Medicaid Serv-
21 ices, all pharmacies designated as
22 essential retail pharmacies for
23 such plan year.

24 “(dd) REVOCATION OF DES-
25 IGNATION.—In the case where,

1 during a plan year, the Secretary
2 determines that a pharmacy no
3 longer meets the requirements
4 for designation as an essential re-
5 tail pharmacy, the Secretary may
6 revoke such designation for such
7 pharmacy, as determined appro-
8 priate by the Secretary.

9 “(V) OTHER DEFINITIONS.—In
10 this clause:

11 “(aa) AFFILIATE.—The
12 term ‘affiliate’ means any entity
13 that is owned by, controlled by,
14 or related under a common own-
15 ership structure with a pharmacy
16 benefit manager or PDP sponsor
17 or that acts as a contractor or
18 agent to such pharmacy benefit
19 manager or PDP sponsor, if such
20 contractor or agent performs any
21 of the functions described in item
22 (cc).

23 “(bb) INDEPENDENT COM-
24 MUNITY PHARMACY.—The term
25 ‘independent community phar-

55

1 macy' means a retail pharmacy
2 that has fewer than 4 locations
3 and is not affiliated with any per-
4 son or entity other than its own-
5 ers.

6 “(cc) PHARMACY BENEFIT
7 MANAGER.—The term ‘pharmacy
8 benefit manager’ means any per-
9 son or entity that, either directly
10 or through an intermediary, acts
11 as a price negotiator or group
12 purchaser on behalf of a PDP
13 sponsor or prescription drug
14 plan, or manages the prescription
15 drug benefits provided by such
16 sponsor or plan, including the
17 processing and payment of claims
18 for prescription drugs, the per-
19 formance of drug utilization re-
20 view, the processing of drug prior
21 authorization requests, the adju-
22 dication of appeals or grievances
23 related to the prescription drug
24 benefit, contracting with network
25 pharmacies, controlling the cost

1 of covered part D drugs, or the
2 provision of related services.
3 Such term includes any person or
4 entity that carries out one or
5 more of the activities described in
6 the preceding sentence, irrespec-
7 tive of whether such person or
8 entity identifies itself as a ‘phar-
9 macy benefit manager’.

10 “(dd) TOTAL REIMBURSE-
11 MENT.—The term ‘total reim-
12 bursement’ means, with respect
13 to a covered part D drug, the ne-
14 gotiated price (as defined in sec-
15 tion 1860D–2(d)(1)(B)) plus any
16 incentive payments paid by the
17 PDP sponsor to such essential
18 retail pharmacy that is an inde-
19 pendent community pharmacy
20 net of any fees, pharmacy price
21 concessions, discounts, or any
22 other forms of remuneration paid
23 by such pharmacy and furnished
24 by such PDP sponsor under sec-
25 tion 1860D–2(f)(4).”.

1 (c) ENFORCEMENT.—

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

6 “(F) ENFORCEMENT OF STANDARDS FOR
7 REASONABLE AND RELEVANT CONTRACT TERMS
8 AND CONDITIONS AND ESSENTIAL RETAIL
9 PHARMACY PROTECTIONS.—

10 “(i) ALLEGATION SUBMISSION PROC-
11 ESS.—

12 “(I) IN GENERAL.—Not later
13 than January 1, 2028, the Secretary
14 shall establish a process through
15 which a pharmacy may submit an al-
16 legation of a violation by a PDP spon-
17 sor offering a prescription drug plan
18 of—

19 “(aa) the standards for rea-
20 sonable and relevant contract
21 terms and conditions under sub-
22 paragraph (A)(ii); or

23 “(bb) the requirements for
24 total reimbursement for essential
25 retail pharmacies that are inde-

1 pendent community pharmacies
2 under subparagraph (C)(v)(II).

3 “(II) FREQUENCY OF SUBMIS-
4 SION.—

5 “(aa) VIOLATIONS OF REA-
6 SONABLE AND RELEVANT CON-
7 TRACT TERMS AND CONDI-
8 TIONS.—The allegation submis-
9 sion process under this clause
10 shall allow pharmacies to submit
11 any allegations of violations de-
12 scribed in item (aa) of subclause
13 (I) not more frequently than once
14 per plan year per contract be-
15 tween a pharmacy and a PDP
16 sponsor. Such submissions shall
17 be separate from any submissions
18 under item (bb) and may include
19 multiple allegations of such viola-
20 tions.

21 “(bb) VIOLATIONS OF ES-
22 SENTIAL RETAIL PHARMACY PRO-
23 TECTIONS.—The allegation sub-
24 mission process under this clause
25 shall allow essential retail phar-

1 macies that are independent com-
2 munity pharmacies to submit any
3 allegations of violations described
4 in item (bb) of subclause (I) once
5 per calendar quarter. Such sub-
6 missions shall be separate from
7 any submissions under item (aa)
8 and may include multiple allega-
9 tions of such violations.

10 “(III) ACCESS TO RELEVANT
11 DOCUMENTS AND MATERIALS.—A
12 PDP sponsor subject to an allegation
13 under this clause—

14 “(aa) shall provide docu-
15 ments or materials, as specified
16 by the Secretary, including con-
17 tract offers made by such spon-
18 sor to such pharmacy or cor-
19 respondence related to such of-
20 fers, to the Secretary at a time
21 and in a form and manner speci-
22 fied by the Secretary; and

23 “(bb) shall not prohibit or
24 otherwise limit the ability of a
25 pharmacy to submit such docu-

1 ments or materials to the Sec-
2 retary for the purpose of submit-
3 ting an allegation or providing
4 evidence for such an allegation
5 under this clause.

6 “(IV) STANDARDIZED TEM-
7 PLATE.—The Secretary shall establish
8 separate standardized templates for
9 pharmacies to use for the submission
10 of allegations described in items (aa)
11 and (bb) of subclause (I). Each such
12 template shall require that the sub-
13 mission include a certification by the
14 pharmacy that the information in-
15 cluded is accurate, complete, and true
16 to the best of the knowledge, informa-
17 tion, and belief of such pharmacy.

18 “(V) PREVENTING FRIVOLOUS
19 ALLEGATIONS.—In the case where the
20 Secretary determines that a pharmacy
21 has submitted frivolous allegations
22 under this clause on a routine basis,
23 the Secretary may temporarily pro-
24 hibit such pharmacy from using the
25 allegation submission process under

1 this clause, as determined appropriate
2 by the Secretary.

3 “(VI) EXEMPTION FROM FREE-
4 DOM OF INFORMATION ACT.—Allega-
5 tions submitted under this clause shall
6 be exempt from disclosure under sec-
7 tion 552 of title 5, United States
8 Code.

9 “(ii) INVESTIGATION.—The Secretary
10 shall investigate, as determined appro-
11 priate by the Secretary, allegations sub-
12 mitted pursuant to clause (i).

13 “(iii) ENFORCEMENT.—

14 “(I) REASONABLE AND REL-
15 EVANT CONTRACT TERMS AND CONDI-
16 TIONS.—In the case where the Sec-
17 retary determines that a PDP sponsor
18 offering a prescription drug plan has
19 violated the standards for reasonable
20 and relevant contract terms and con-
21 ditions under subparagraph (A)(ii),
22 the Secretary shall use existing au-
23 thorities under sections 1857(g) and
24 1860D–12(b)(3)(E) to impose civil

1 monetary penalties or take other en-
2 forcement actions.

3 “(II) ESSENTIAL RETAIL PHAR-
4 MACY PROTECTIONS.—In the case
5 where the Secretary determines that a
6 PDP sponsor offering a prescription
7 drug plan has violated the require-
8 ments for total reimbursement for es-
9 sential retail pharmacies that are
10 independent community pharmacies
11 under subparagraph (C)(v)(II), the
12 Secretary shall—

13 “(aa) if the amount of total
14 reimbursement paid by the spon-
15 sor to an essential retail phar-
16 macy that is an independent
17 community pharmacy for a cov-
18 ered part D drug was less than
19 the amount of total reimburse-
20 ment required to be paid to the
21 pharmacy under subparagraph
22 (C)(v)(II) for such drug, require
23 the PDP sponsor to pay to the
24 pharmacy an amount equal to

1 the difference between such
2 amounts; and

3 “(bb) use existing authori-
4 ties under section 1857(g) and
5 1860D–12(b)(3)(E) to impose
6 civil monetary penalties or take
7 other enforcement actions.

8 “(III) APPLICATION OF CIVIL
9 MONETARY PENALTIES.—The provi-
10 sions of section 1128A (other than
11 subsections (a) and (b)) shall apply to
12 a civil monetary penalty under this
13 clause in the same manner as such
14 provisions apply to a penalty or pro-
15 ceeding under section 1128A(a).

16 “(iv) DEFINITIONS.—In this subpara-
17 graph, the terms ‘essential retail phar-
18 macy’, ‘independent community pharmacy’,
19 and ‘total reimbursement’ have the mean-
20 ing given those terms in subparagraph
21 (C)(v).”.

22 (2) CONFORMING AMENDMENT.—Section
23 1857(g)(1) of the Social Security Act (42 U.S.C.
24 1395w–27(g)(1)) is amended—

1 (A) in subparagraph (J), by striking “or”
2 after the semicolon;

3 (B) by redesignating subparagraph (K) as
4 subparagraph (L);

5 (C) by inserting after subparagraph (J),
6 the following new subparagraph:

7 “(K) fails to comply with—

8 “(i) the standards for reasonable and
9 relevant contract terms and conditions
10 under subparagraph (A)(ii) of section
11 1860D–4(b)(1); or

12 “(ii) the requirements for total reim-
13 bursement for essential retail pharmacies
14 that are independent community phar-
15 macies under subparagraph (C)(v)(II) of
16 such section; or”;

17 (D) in subparagraph (L), as redesignated
18 by subparagraph (B), by striking “through (J)”
19 and inserting “through (K)”; and

20 (E) in the flush matter following subpara-
21 graph (L), as so redesignated, by striking “sub-
22 paragraphs (A) through (K)” and inserting
23 “subparagraphs (A) through (L)”.

24 (d) ACCOUNTABILITY OF PHARMACY BENEFIT MAN-
25 AGERS FOR VIOLATIONS OF REASONABLE AND RELEVANT

1 CONTRACT TERMS AND CONDITIONS AND ESSENTIAL RE-
2 TAIL PHARMACY PROTECTIONS.—

3 (1) IN GENERAL.—Section 1860D–12(b) of the
4 Social Security Act (42 U.S.C. 1395w–112) is
5 amended by adding at the end the following new
6 paragraph:

7 “(9) ACCOUNTABILITY OF PHARMACY BENEFIT
8 MANAGERS FOR VIOLATIONS OF REASONABLE AND
9 RELEVANT CONTRACT TERMS AND CONDITIONS AND
10 ESSENTIAL RETAIL PHARMACY PROTECTIONS.—For
11 plan years beginning on or after January 1, 2028,
12 each contract entered into with a PDP sponsor
13 under this part with respect to a prescription drug
14 plan offered by such sponsor shall provide that any
15 pharmacy benefit manager acting on behalf of such
16 sponsor has a written agreement with the PDP
17 sponsor under which the pharmacy benefit manager
18 agrees to reimburse the PDP sponsor for any
19 amounts paid by such sponsor under subclause (I)
20 or (II) of section 1860D–4(b)(1)(F)(iii) as a result
21 of a violation described in such subclause (I) or (II)
22 if such violation is related to a responsibility dele-
23 gated to the pharmacy benefit manager by such
24 PDP sponsor.”.

1 (B) by striking “and” after the semicolon
2 at the end of clause (i) and all that precedes it
3 through “(1)” and inserting the following:

4 “(1) DETERMINING PHARMACY ACTUAL ACQUI-
5 SITION COSTS.—The Secretary shall conduct a sur-
6 vey of retail community pharmacy drug prices and
7 applicable non-retail pharmacy drug prices to deter-
8 mine national average drug acquisition cost bench-
9 marks as follows:

10 “(A) USE OF VENDOR.—The Secretary
11 may contract services for—

12 “(i) with respect to retail community
13 pharmacies, the determination of retail
14 survey prices of the national average drug
15 acquisition cost for covered outpatient
16 drugs that represent a nationwide average
17 of consumer purchase prices for such
18 drugs, net of all discounts and rebates (to
19 the extent any information with respect to
20 such discounts and rebates is available)
21 based on a monthly survey of such phar-
22 macies;

23 “(ii) with respect to applicable non-re-
24 tail pharmacies—

1 “(I) the determination of survey
2 prices, separate from the survey prices
3 described in clause (i), of the non-re-
4 tail national average drug acquisition
5 cost for covered outpatient drugs that
6 represent a nationwide average of con-
7 sumer purchase prices for such drugs,
8 net of all discounts and rebates (to
9 the extent any information with re-
10 spect to such discounts and rebates is
11 available) based on a monthly survey
12 of such pharmacies; and

13 “(II) at the discretion of the Sec-
14 retary, for each type of applicable
15 non-retail pharmacy (as identified
16 pursuant to the type indicators estab-
17 lished by the Secretary under sub-
18 section (k)(12)(B)(ii)), the determina-
19 tion of survey prices, separate from
20 the survey prices described in clause
21 (i) or subclause (I) of this clause, of
22 the national average drug acquisition
23 cost for such type of pharmacy for
24 covered outpatient drugs that rep-
25 resent a nationwide average of con-

1 indicators established by the Secretary
2 under subsection (k)(12)(B)(ii) it is.”;

3 (3) by adding at the end of paragraph (1) the
4 following:

5 “(F) SURVEY REPORTING.—In order to
6 meet the requirement of section 1902(a)(54), a
7 State shall require that any retail community
8 pharmacy or applicable non-retail pharmacy in
9 the State that receives any payment, reimburse-
10 ment, administrative fee, discount, or rebate re-
11 lated to the dispensing of covered outpatient
12 drugs to individuals receiving benefits under
13 this title, regardless of whether such payment,
14 reimbursement, administrative fee, discount, or
15 rebate is received from the State or a managed
16 care entity or other specified entity (as such
17 terms are defined in section 1903(m)(9)(D)) di-
18 rectly or from a pharmacy benefit manager or
19 another entity that has a contract with the
20 State or a managed care entity or other speci-
21 fied entity (as so defined), shall respond to sur-
22 veys conducted under this paragraph.

23 “(G) SURVEY INFORMATION.—Information
24 on national drug acquisition prices obtained
25 under this paragraph shall be made publicly

1 available and shall include at least the fol-
2 lowing:

3 “(i) The monthly response rate to the
4 survey including a list of pharmacies not in
5 compliance with subparagraph (F).

6 “(ii) The sampling frame and number
7 of pharmacies sampled monthly.

8 “(iii) Information on price concessions
9 to the pharmacy, including discounts, re-
10 bates, and other price concessions, to the
11 extent that such information may be pub-
12 licly released and has been collected by the
13 Secretary as part of the survey.

14 “(H) PENALTIES.—The Secretary, in con-
15 sultation with the Office of the Inspector Gen-
16 eral of the Department of Health and Human
17 Services, shall enforce the provisions of this
18 paragraph with respect to a pharmacy through
19 the establishment of appropriate civil monetary
20 penalties, which may be assessed with respect
21 to each violation or survey non-response, and
22 with respect to each non-compliant pharmacy
23 (including a pharmacy that is part of a chain),
24 until compliance with this paragraph has been
25 completed. The provisions of section 1128A

1 (other than subsections (a) and (b)) shall apply
2 to a civil money penalty under the preceding
3 sentence in the same manner as such provisions
4 apply to a civil money penalty or proceeding
5 under section 1128A(a).

6 “(I) LIMITATION ON USE OF APPLICABLE
7 NON-RETAIL PHARMACY PRICING INFORMA-
8 TION.—No State shall use pricing information
9 reported by applicable non-retail pharmacies
10 under paragraph (1)(A)(ii) to develop or inform
11 reimbursement rates for retail community phar-
12 macies.”;

13 (4) in paragraph (2)—

14 (A) in subparagraph (A), by inserting “,
15 including payment rates under managed care
16 entities or other specified entities (as such
17 terms are defined in section 1903(m)(9)(D)),”
18 after “under this title”; and

19 (B) in subparagraph (B), by inserting
20 “and the basis for such dispensing fees” before
21 the semicolon;

22 (5) by redesignating paragraph (4) as para-
23 graph (5);

24 (6) by inserting after paragraph (3) the fol-
25 lowing new paragraph:

1 “(4) OVERSIGHT.—

2 “(A) IN GENERAL.—The Inspector General
3 of the Department of Health and Human Serv-
4 ices shall conduct periodic studies of the survey
5 data reported under this subsection, as appro-
6 priate, including with respect to substantial
7 variations in acquisition costs or other applica-
8 ble costs, as well as with respect to how internal
9 transfer prices and related party transactions
10 may influence the costs reported by pharmacies
11 affiliated with pharmacy benefit managers,
12 wholesalers, distributors, and other entities that
13 acquire covered outpatient drugs relative to
14 costs reported by pharmacies not affiliated with
15 such entities. The Inspector General shall pro-
16 vide periodic updates to Congress on the results
17 of such studies, as appropriate, in a manner
18 that does not disclose trade secrets or other
19 proprietary information.

20 “(B) APPROPRIATION.—There is appro-
21 priated to the Inspector General of the Depart-
22 ment of Health and Human Services, out of
23 any money in the Treasury not otherwise ap-
24 propriated, \$5,000,000 for fiscal year 2024, to

1 remain available until expended, to carry out
2 this paragraph.”; and

3 (7) in paragraph (5), as so redesignated, by in-
4 serting “, and \$9,000,000 for fiscal year 2024 and
5 each fiscal year thereafter,” after “2010”.

6 (b) DEFINITIONS.—Section 1927(k) of the Social Se-
7 curity Act (42 U.S.C. 1396r–8(k)) is amended by adding
8 the following—

9 “(12) APPLICABLE NON-RETAIL PHARMACY.—

10 “(A) IN GENERAL.—The term ‘applicable
11 non-retail pharmacy’ means a pharmacy that is
12 licensed as a pharmacy by the State and that
13 is not a retail community pharmacy, including
14 a pharmacy that dispenses prescription medica-
15 tions to patients primarily through mail and
16 specialty pharmacies. Such term does not in-
17 clude nursing home pharmacies, long-term care
18 facility pharmacies, hospital pharmacies, clinics,
19 charitable or not-for-profit pharmacies, govern-
20 ment pharmacies, or low dispensing pharmacies
21 (as defined by the Secretary).

22 “(B) IDENTIFICATION OF APPLICABLE
23 NON-RETAIL PHARMACIES.—

24 “(i) IN GENERAL.—For purposes of
25 subsection (f), the Secretary shall, not

1 later than January 1, 2026, in consulta-
2 tion with stakeholders as appropriate, issue
3 guidance specifying pharmacies that meet
4 the definition of applicable non-retail phar-
5 macies and that will, beginning January 1,
6 2027, be subject to the survey require-
7 ments under subsection (f)(1).

8 “(ii) INCLUSION OF PHARMACY TYPE
9 INDICATORS.—The guidance promulgated
10 under clause (i) shall include pharmacy
11 type indicators to distinguish between dif-
12 ferent types of applicable non-retail phar-
13 macies, such as pharmacies that dispense
14 prescriptions primarily through the mail
15 and pharmacies that dispense prescriptions
16 that require special handling or distribu-
17 tion. An applicable non-retail pharmacy
18 may be identified through multiple phar-
19 macy type indicators.

20 “(13) PHARMACY BENEFIT MANAGER.—The
21 term ‘pharmacy benefit manager’ means any person
22 or entity that, either directly or through an inter-
23 mediary, acts as a price negotiator or group pur-
24 chaser on behalf of a State, managed care entity or
25 other specified entity (as such terms are defined in

1 section 1903(m)(9)(D)), or manages the prescription
2 drug benefits provided by such State, managed care
3 entity, or other specified entity, including the proc-
4 essing and payment of claims for prescription drugs,
5 the performance of drug utilization review, the proc-
6 essing of drug prior authorization requests, the man-
7 aging of appeals or grievances related to the pre-
8 scription drug benefits, contracting with pharmacies,
9 controlling the cost of covered outpatient drugs, or
10 the provision of services related thereto. Such term
11 includes any person or entity that carries out 1 or
12 more of the activities described in the preceding sen-
13 tence, irrespective of whether such person or entity
14 calls itself a ‘pharmacy benefit manager’.”.

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section take effect on the first day of the first quarter
17 that begins on or after the date that is 18 months after
18 the date of enactment of this Act.

19 **SEC. 203. PROTECTING SENIORS FROM EXCESSIVE COST-**
20 **SHARING FOR CERTAIN MEDICINES.**

21 Section 1860D–2 of the Social Security Act (42
22 U.S.C. 1395w–102) is amended—

23 (1) in subsection (b)—

1 (A) in paragraph (2)(A), in the matter
2 preceding clause (i), by striking “and (9)” and
3 inserting “, (9), (10), and (11)”; and

4 (B) by adding at the end the following new
5 paragraphs:

6 “(10) TYING COST-SHARING TO NET PRICE FOR
7 CERTAIN MEDICATIONS.—

8 “(A) IN GENERAL.—For plan years begin-
9 ning on or after January 1, 2028, for costs
10 above the annual deductible specified in para-
11 graph (1) and below the annual out-of-pocket
12 threshold specified in paragraph (4), any coin-
13 surance amount for a discount-eligible drug
14 that is included on the plan’s formulary and
15 subject to coinsurance rather than a copayment
16 shall be calculated based on the net price of
17 such discount-eligible drug.

18 “(B) REPORTING TO THE SECRETARY.—
19 For plan years beginning on or after January
20 1, 2028, a PDP sponsor of a prescription drug
21 plan and an MA organization offering an MA-
22 PD plan shall annually submit to the Secretary,
23 in a form and manner determined appropriate
24 by the Secretary—

1 “(i) approximate price concessions
2 and net prices for each discount-eligible
3 drug; and

4 “(ii) a written explanation of the
5 methodology used to calculate such approx-
6 imate price concessions and net prices.

7 “(C) REQUIREMENTS FOR APPROXIMATE
8 PRICE CONCESSIONS.—

9 “(i) IN GENERAL.—Approximate price
10 concessions submitted under subparagraph
11 (B) shall comply with—

12 “(I) the drug-specific threshold
13 under clause (ii) for the applicable
14 plan year; and

15 “(II) the aggregate threshold
16 under clause (iii) for the applicable
17 plan year.

18 “(ii) THRESHOLDS.—

19 “(I) PLAN YEARS 2028 THROUGH
20 2032.—For plan years 2028 through
21 2032—

22 “(aa) the drug-specific
23 threshold is 20 percent; and

24 “(bb) the aggregate thresh-
25 old is 15 percent.

1 mined appropriate by the Sec-
2 retary.

3 “(cc) REQUIREMENTS.—In
4 making any such adjustments,
5 the Secretary shall ensure that
6 the aggregate threshold for an
7 applicable plan year is lower than
8 the drug-specific threshold for
9 such applicable plan year.

10 “(dd) PUBLICATION.—The
11 Secretary shall publish any ad-
12 justments to the drug-specific
13 and aggregate thresholds under
14 this clause no later than the first
15 Monday of April of the year be-
16 fore the start of the plan year for
17 which such adjusted thresholds
18 are applicable.

19 “(D) PUBLICATION OF DISCOUNT-ELIGI-
20 BLE DRUGS.—Not later than 15 months before
21 the start of each plan year (beginning with plan
22 year 2028), the Secretary shall publish on a
23 publicly available website a list of the discount-
24 eligible drugs that apply with respect to such

1 plan year (as determined by the Secretary
2 under subparagraph (F)(iv)).

3 “(E) ENFORCEMENT.—

4 “(i) MONITORING COMPLIANCE.—The
5 Secretary, in consultation with the Office
6 of the Inspector General, shall conduct
7 periodic audits of prescription drug plans
8 and MA–PD plans to monitor compliance
9 with the requirements under this para-
10 graph. All information reported by a PDP
11 sponsor or MA organization under this
12 paragraph may be subject to audit by the
13 Secretary and the Office of the Inspector
14 General.

15 “(ii) PENALTIES.—

16 “(I) IN GENERAL.—A PDP spon-
17 sor or an MA organization that vio-
18 lates the requirements under this
19 paragraph may be subject to civil
20 monetary penalties, consistent with
21 sections 1857(g) and 1860D–
22 12(b)(3)(E), as determined appro-
23 priate by the Secretary.

24 “(II) APPLICATION.—The provi-
25 sions of section 1128A (other than

1 subsections (a) and (b)) shall apply to
2 a civil monetary penalty under this
3 clause in the same manner as such
4 provisions apply to a penalty or pro-
5 ceeding under section 1128A(a).

6 “(F) DEFINITIONS.—In this paragraph:

7 “(i) ACTUAL PRICE CONCESSIONS.—
8 The term ‘actual price concessions’ means,
9 with respect to a covered part D drug, the
10 amount of manufacturer price concessions
11 that the PDP sponsor or MA organization
12 reports for such drug in the Detailed DIR
13 Report (or successor report) for the appli-
14 cable plan year.

15 “(ii) AGGREGATE THRESHOLD.—The
16 term ‘aggregate threshold’ means the max-
17 imum percentage by which the total ap-
18 proximate price concessions for all dis-
19 count-eligible drugs may vary from the
20 total actual manufacturer price concessions
21 for all such discount-eligible drugs as re-
22 ported in the Detailed DIR Report (or suc-
23 cessor report) for the applicable plan year.

24 “(iii) APPROXIMATE PRICE CONCES-
25 SIONS.—The term ‘approximate price con-

1 cessions’ means, with respect to a covered
2 part D drug, the amount of price conces-
3 sions from manufacturers that the PDP
4 sponsor or MA organization estimates it
5 will receive with respect to an applicable
6 plan year, subject to the thresholds estab-
7 lished under subparagraph (C)(ii), and re-
8 flected in the net price.

9 “(iv) DISCOUNT-ELIGIBLE DRUG.—

10 “(I) IN GENERAL.—The term
11 ‘discount-eligible drug’ means a cov-
12 ered part D drug (other than a cov-
13 ered part D drug described in para-
14 graph (8) or (9))—

15 “(aa) that is in an applica-
16 ble category or class described in
17 subclause (II); and

18 “(bb) for which the aggre-
19 gate manufacturer price conces-
20 sions received by PDP sponsors
21 and MA organizations (or phar-
22 macy benefit managers acting on
23 behalf of such sponsors or orga-
24 nizations) for such drug are
25 equal to or exceed 50 percent of

1 aggregate gross covered prescrip-
2 tion drug costs for such drug in
3 the most recent plan year for
4 which data is available, as deter-
5 mined by the Secretary based on
6 previous submissions of Detailed
7 DIR Reports (or successor re-
8 ports) or other relevant reporting
9 from PDP sponsors or MA orga-
10 nizations.

11 “(II) APPLICABLE CATEGORY OR
12 CLASS.—The applicable categories and
13 classes described in this subclause are
14 the following, as specified by the
15 United States Pharmacopeia:

16 “(aa) Anti-inflammatories
17 (Inhaled Corticosteroids).

18 “(bb) Bronchodilators, Anti-
19 cholinergic.

20 “(cc) Bronchodilators,
21 Sympathomimetic.

22 “(dd) Respiratory tract
23 agents.

24 “(ee) Anticoagulants.

25 “(ff) Cardiovascular agents.

1 “(v) DRUG-SPECIFIC THRESHOLD.—

2 The term ‘drug-specific threshold’ means
3 the maximum percentage by which approx-
4 imate price concessions with respect to a
5 discount-eligible drug may vary from the
6 actual manufacturer price concessions for
7 such drug, as reported in the Detailed DIR
8 Report (or successor report) for the appli-
9 cable plan year.

10 “(vi) NET PRICE.—The term ‘net
11 price’ means, with respect to a covered
12 part D drug, the negotiated price of such
13 drug, net of all approximate price conces-
14 sions (estimated on an average per-unit
15 basis, as needed) not already reflected in
16 the negotiated price for the applicable plan
17 year.

18 “(vii) MANUFACTURER PRICE CON-
19 CESSIONS.—The term ‘manufacturer price
20 concessions’ means, with respect to a cov-
21 ered part D drug, rebates that the PDP
22 sponsor or MA organization receives from
23 manufacturers.

24 “(G) NONAPPLICATION OF PAPERWORK
25 REDUCTION ACT.—Chapter 35 of title 44,

1 United States Code, shall not apply to any data
2 collection undertaken by the Secretary under
3 this paragraph.

4 “(11) LIMITING COST-SHARING TO NET
5 PRICE.—

6 “(A) IN GENERAL.—For plan years begin-
7 ning on or after January 1, 2028, the cost-
8 sharing (for costs above the annual deductible
9 specified in paragraph (1)) for a covered part D
10 drug (other than a covered part D drug de-
11 scribed in paragraph (8) or (9)) shall not ex-
12 ceed the negotiated price for such covered part
13 D drug net of all price concessions (as defined
14 in paragraph (10)(F)(v)), as reported in the
15 Detailed DIR Report (or successor report) for
16 the applicable plan year.

17 “(B) ENFORCEMENT.—

18 “(i) MONITORING COMPLIANCE.—The
19 Secretary shall monitor compliance with
20 the requirements under subparagraph (A)
21 on an ongoing basis, including through
22 periodic audits.

23 “(ii) RETROACTIVE PENALTIES.—

24 “(I) IN GENERAL.—A PDP spon-
25 sor or an MA organization that vio-

1 at least one such high-discount bio-
2 similar—

3 “(aa) on a different for-
4 mulary tier and with lower cost-
5 sharing than such part D ref-
6 erence biologic; and

7 “(bb) without utilization
8 management policies (such as
9 step therapy, prior authorization,
10 or quantity limits) that are more
11 restrictive than the utilization
12 management policies applied to
13 such part D reference biologic.

14 “(II) FOR PLANS THAT COVER
15 LOWER DISCOUNT BIOSIMILARS.—If
16 the formulary includes at least one
17 lower discount biosimilar for a part D
18 reference biologic, and at least one
19 high-discount biosimilar for such bio-
20 logic is currently licensed and mar-
21 keted, then the plan shall include on
22 its formulary at least one such high-
23 discount biosimilar—

24 “(aa) on a different for-
25 mulary tier and with lower cost-

1 sharing than every lower discount
2 biosimilar for such biologic on
3 such formulary; and

4 “(bb) with less restrictive
5 (or equivalent) utilization man-
6 agement policies (such as step
7 therapy, prior authorization, or
8 quantity limits), if any such poli-
9 cies are applied, than are applied
10 to any lower discount biosimilar
11 for such biologic on such for-
12 mulary.

13 “(III) CLARIFICATION ON LOW-
14 EST COST-SHARING TIER.—In the case
15 of a plan that covers a part D ref-
16 erence biologic or a lower discount
17 biosimilar on the lowest cost-sharing
18 tier of the formulary or with the most
19 preferred status for such formulary,
20 then the plan shall be deemed to be in
21 compliance with the requirements
22 specified under subclauses (I)(aa) and
23 (II)(aa) if such plan also covers a
24 high-discount biosimilar for such bio-

1 logic on such a tier or with such pre-
2 ferred status, as applicable.

3 “(ii) PUBLICATION OF BIENNIAL
4 HIGH-DISCOUNT BIOSIMILAR LIST AND
5 CERTAIN AVERAGE WHOLESALE ACQUI-
6 TION COST INFORMATION.—On a biennial
7 basis, beginning July 1, 2025, the Sec-
8 retary shall publish, on a publicly acces-
9 sible website of the Centers for Medicare &
10 Medicaid Services, in a form and manner
11 determined appropriate by the Secretary,
12 the following:

13 “(I) A high-discount biosimilar
14 list based on the most recent average
15 wholesale acquisition cost calculation
16 period for which data is available, as
17 determined by the Secretary. Such list
18 shall specify each high-discount bio-
19 similar and each lower discount bio-
20 similar with respect to each part D
21 reference biologic for which at least
22 one part D biosimilar biological prod-
23 uct has been licensed and is currently
24 marketed, as of the last day of the av-
25 erage wholesale acquisition cost cal-

1 culation period used by the Secretary
2 as the basis for such list.

3 “(II) The average wholesale ac-
4 quisition cost for each such reference
5 part D biologic, lower discount bio-
6 similar, and high-discount biosimilar.

7 “(iii) CALCULATION OF AVERAGE
8 WHOLESAL ACQUISITION COST.—For pur-
9 poses of this subparagraph, the Secretary
10 shall calculate the average wholesale acqui-
11 sition cost of a covered part D drug in ac-
12 cordance with the following:

13 “(I) Except as provided in sub-
14 clause (II), for purposes of deter-
15 mining the average wholesale acquisi-
16 tion cost of a part D reference bio-
17 logic or a biosimilar biological prod-
18 uct, the Secretary shall calculate the
19 volume-weighted monthly average
20 wholesale acquisition cost for such
21 product over the most recent 6-month
22 period for which data is available.

23 “(II) For purposes of deter-
24 mining the average wholesale acquisi-
25 tion cost of a part D reference bio-

1 logic or a biosimilar biological product
2 first licensed or marketed during the
3 most recent 6-month period for which
4 data is available, the Secretary shall
5 calculate the average wholesale acqui-
6 sition cost for such biologic or product
7 based on the average wholesale acqui-
8 sition cost for such biologic or product
9 for those months for which data is
10 available.

11 “(iv) ESTIMATED NET PRICE EXCEP-
12 TION.—

13 “(I) IN GENERAL.—An exception
14 to the requirements under clause (i)
15 shall apply to a plan that, as deter-
16 mined by the Secretary under sub-
17 clause (II), at the time of submission
18 of an application for an exception (or
19 for a renewal of such an exception)
20 under this clause—

21 “(aa) includes on its for-
22 mulary a part D reference bio-
23 logic with an estimated net price
24 that is lower than the average
25 wholesale acquisition cost of

1 every high-discount biosimilar for
2 such biologic included in the
3 most recently published biannual
4 high-discount biosimilar list; and
5 “(bb) does not include on its
6 formulary a part D reference bio-
7 logic, but does include on its for-
8 mulary at least one lower dis-
9 count biosimilar that is placed on
10 the lowest cost-sharing tier or
11 has the most preferred formulary
12 status under such plan and has
13 an estimated net price that is
14 lower than the average wholesale
15 acquisition cost of every high-dis-
16 count biosimilar for such part D
17 reference biologic included in the
18 most recently published biannual
19 high-discount biosimilar list.

20 “(II) APPLICATION PROCESS.—
21 The Secretary shall establish a proc-
22 ess under which a PDP sponsor or an
23 MA organization may submit an ap-
24 plication to the Secretary requesting

1 an exception under subclause (I) or a
2 renewal of such an exception.

3 “(III) COMPLIANCE.—A submis-
4 sion of an application under subclause
5 (II) may be subject to audit by the
6 Secretary, as determined appropriate.

7 “(IV) DETERMINATIONS.—After
8 receiving a submission of an applica-
9 tion under this clause, the Secretary
10 shall make a determination as to
11 whether the exception under subclause
12 (I) is applicable. The Secretary shall
13 notify a PDP sponsor or an MA orga-
14 nization of such determination within
15 60 days after the publication of the
16 biannual high-discount biosimilar list.
17 The Secretary may, as determined ap-
18 propriate and to the extent feasible,
19 establish a process for a sponsor or
20 organization that has received a rejec-
21 tion of an application under this
22 clause to apply for reconsideration of
23 such application.

24 “(V) REPORTING.—With respect
25 to plan year 2026 and each subse-

1 quent plan year, the Secretary shall
2 publish, on a publicly available website
3 of the Centers for Medicare & Med-
4 icaid Services, the following informa-
5 tion related to the exception under
6 subclause (I):

7 “(aa) The total number of
8 applications submitted by PDP
9 sponsors or MA organizations
10 seeking such exceptions.

11 “(bb) The total number of
12 such applications that are accept-
13 ed.

14 “(cc) The total number of
15 such applications that are re-
16 jected.

17 “(v) ENFORCEMENT.—

18 “(I) PENALTIES.—

19 “(aa) IN GENERAL.—Sub-
20 ject to subclause (II), in the case
21 where the Secretary determines
22 that a PDP sponsor of a pre-
23 scription drug plan or an MA or-
24 ganization offering an MA-PD
25 plan has violated the require-

1 ments under this subparagraph,
2 including by not including a
3 high-discount biosimilar on its
4 formulary, not including a high-
5 discount biosimilar on an appro-
6 priate cost-sharing tier, or sub-
7 mitting false or misleading infor-
8 mation to the Secretary when ap-
9 plying for the exception estab-
10 lished under clause (iv), the Sec-
11 retary may use existing authori-
12 ties under sections 1857(g) and
13 1860D–12(b)(3)(E) to impose
14 civil monetary penalties or take
15 other enforcement actions, as de-
16 termined appropriate by the Sec-
17 retary.

18 “(bb) APPLICATION.—The
19 provisions of section 1128A
20 (other than subsections (a) and
21 (b)) shall apply to any civil mon-
22 etary penalties imposed under
23 this subclause in the same man-
24 ner as such provisions apply to a

1 penalty or proceeding under sec-
2 tion 1128A(a).

3 “(II) GRACE PERIOD FOR COM-
4 PLIANCE.—A PDP sponsor of a pre-
5 scription drug plan or an MA organi-
6 zation offering an MA–PD plan shall
7 have until the date that is 90 days
8 after the publication of each biannual
9 high-discount biosimilar list to make
10 any formulary changes necessary to
11 be in compliance with the require-
12 ments of clause (i)

13 “(III) CLARIFICATION OF MID-
14 YEAR FORMULARY CHANGE FLEXI-
15 BILITIES FOR COMPLIANCE PUR-
16 POSES.—

17 “(aa) IN GENERAL.—The
18 PDP sponsor may, for purposes
19 of complying with the require-
20 ments of clause (i), change the
21 preferred or tiered cost-sharing
22 status of a part D reference bio-
23 logic or a lower discount bio-
24 similar for such biologic if such
25 sponsor adds (before or at the

1 same time) to the formulary one
2 or more high-discount biosimilars
3 for such biologic at the same or
4 a higher preferred status or to
5 the same or lower cost-sharing
6 tier, as that of such biologic or
7 such lower discount biosimilar
8 prior to such change.

9 “(bb) OVERSIGHT.—The
10 Secretary may, as determined ap-
11 propriate, establish requirements
12 and procedures with respect to
13 formulary changes under item
14 (aa). Such changes shall be sub-
15 ject to review or reversal by the
16 Secretary, as determined appro-
17 priate, based on the application
18 of such requirements and proce-
19 dures.

20 “(cc) RULE OF CONSTRUC-
21 TION.—Nothing in this subclause
22 shall be construed to limit the
23 ability of the Secretary to estab-
24 lish or modify requirements with
25 respect to formularies for plans

1 under this part, consistent with
2 other provisions of law.

3 “(vi) CONFIDENTIALITY.—The Sec-
4 retary, in accordance with requirements
5 and standards determined appropriate by
6 the Secretary, shall provide for the con-
7 fidentiality of any trade secrets or other
8 proprietary information contained in infor-
9 mation received by the Secretary under
10 this subparagraph.

11 “(vii) DEFINITIONS.—In this subpara-
12 graph:

13 “(I) AVERAGE WHOLESAL AC-
14 QUISTION COST.—The term ‘average
15 wholesale acquisition cost’ means,
16 with respect to a covered part D drug,
17 the volume-weighted monthly average
18 wholesale acquisition cost during the
19 average wholesale acquisition cost cal-
20 culation period used by the Secretary
21 to establish the biannual high-dis-
22 count biosimilar list.

23 “(II) AVERAGE WHOLESAL AC-
24 QUISTION COST CALCULATION PE-
25 RIOD.—The term ‘average wholesale

1 acquisition cost calculation period’
2 means the 6-month period used by the
3 Secretary to calculate the average
4 wholesale acquisition costs of relevant
5 covered part D drugs under clause
6 (iii) for the purposes of developing the
7 biannual high-discount biosimilar list.

8 “(III) BIANNUAL HIGH-DIS-
9 COUNT BIOSIMILAR LIST.—The term
10 ‘biannual high-discount biosimilar list’
11 means the list of high-discount
12 biosimilars with respect to each part
13 D reference biologic, as determined by
14 the Secretary and published on a bi-
15 annual basis under clause (ii).

16 “(IV) BIOSIMILAR BIOLOGICAL
17 PRODUCT.—The term ‘biosimilar bio-
18 logical product’ has the meaning given
19 that term in section 1847A(e)(6)(H)).

20 “(V) BIOSIMILAR DISCOUNT
21 THRESHOLD PERCENT.—

22 “(aa) IN GENERAL.—Sub-
23 ject to item (bb), the term ‘bio-
24 similar discount threshold per-
25 cent’ is 45 percent.

1 “(bb) DISCRETIONARY IN-
2 CREASE TO THRESHOLD PER-
3 CENT.—

4 “(AA) IN GENERAL.—
5 Subject to subitems (BB)
6 and (CC), for plan years be-
7 ginning with 2030, the Sec-
8 retary may increase the bio-
9 similar discount threshold
10 percent applicable under this
11 subclause during the pre-
12 ceding year.

13 “(BB) TIMING FOR AD-
14 JUSTMENTS.—If the Sec-
15 retary elects to increase the
16 biosimilar discount threshold
17 percent pursuant to subitem
18 (AA) with respect to a plan
19 year, the Secretary shall
20 publish, on a publicly avail-
21 able website of the Centers
22 for Medicare & Medicaid
23 Services, such increased bio-
24 similar discount threshold
25 percent not later than the

1 first Monday in April of the
2 plan year preceding such
3 plan year.

4 “(CC) LIMITATIONS ON
5 ADJUSTMENTS.—The Sec-
6 retary shall not increase the
7 biosimilar discount threshold
8 percent under subitem (AA)
9 by more than 5 percentage
10 points from one plan year to
11 the next.

12 “(VI) ESTIMATED NET PRICE.—
13 The term ‘estimated net price’ means
14 the average wholesale acquisition cost
15 of a covered part D drug, net of all
16 manufacturer rebates that are re-
17 ceived or expected to be received by
18 the plan (or pharmacy benefit man-
19 ager on behalf of such plan) for such
20 drug that are not already reflected in
21 the average wholesale acquisition cost,
22 as evidenced by the submission of any
23 documents or materials required by
24 the Secretary, and by any consultation

1 determined appropriate by the Sec-
2 retary.

3 “(VII) HIGH-DISCOUNT BIO-
4 SIMILAR.—The term ‘high-discount
5 biosimilar’ means a part D biosimilar
6 biological product with an average
7 wholesale acquisition cost that is
8 lower than the average wholesale ac-
9 quisition cost of the part D reference
10 biologic for such biosimilar biological
11 product by at least the biosimilar dis-
12 count threshold percent, as deter-
13 mined under subclause (V) and pub-
14 lished under clause (ii).

15 “(VIII) LOWER DISCOUNT BIO-
16 SIMILAR.—The term ‘lower discount
17 biosimilar’ means a part D biosimilar
18 biological product that is not a high-
19 discount biosimilar.

20 “(IX) PART D BIOSIMILAR BIO-
21 LOGICAL PRODUCT.—The term ‘part
22 D biosimilar biological product’ means
23 a covered part D drug that is a bio-
24 similar biological product.

1 under subparagraph (A)(ii) of section
2 1860D–4(b)(1); or

3 “(ii) the requirements for total reim-
4 bursement for essential retail pharmacies
5 that are independent community phar-
6 macies under subparagraph (C)(v)(II) of
7 such section; or”;

8 (D) in subparagraph (M), as redesignated
9 by subparagraph (B), by striking “through
10 (K)” and inserting “through (L)”; and

11 (E) in the flush matter following subpara-
12 graph (M), as so redesignated, by striking
13 “subparagraphs (A) through (L)” and inserting
14 “subparagraphs (A) through (M)”.

15 (b) ADMINISTRATION.—

16 (1) IMPLEMENTATION.—Notwithstanding any
17 other provision of law, the Secretary of Health and
18 Human Services may, with respect to plan years
19 2026 through 2028, implement the amendment
20 made by subsection (a) by program instruction or
21 otherwise.

22 (2) NON-APPLICATION OF THE PAPERWORK RE-
23 DUCATION ACT.—Chapter 35 of title 44, United
24 States Code (commonly referred to as the “Paper-
25 work Reduction Act of 1995”), shall not apply to the

1 implementation of the amendments made by sub-
2 section (a).

3 **TITLE III—MEDICAID EXPIRING**
4 **PROVISIONS**

5 **SEC. 301. DELAYING CERTAIN DISPROPORTIONATE SHARE**
6 **HOSPITAL PAYMENT REDUCTIONS UNDER**
7 **THE MEDICAID PROGRAM.**

8 Section 1923(f)(7)(A) of the Social Security Act (42
9 U.S.C. 1396r-4(f)(7)(A)), as amended by section 2341 of
10 title III of division B of the Continuing Appropriations
11 Act, 2024 and Other Extensions Act (Public Law 118-
12 15), is further amended—

13 (1) in clause (i)—

14 (A) in the matter preceding subclause (I),
15 by striking “For the period beginning” and all
16 that follows through “2027” and inserting “For
17 each of fiscal years 2026 and 2027”; and

18 (B) in subclauses (I) and (II), by striking
19 “or period” each place it appears; and

20 (2) in clause (ii), by striking “for the period be-
21 ginning” and all that follows through “2027” and
22 inserting “for each of fiscal years 2026 and 2027”.

1 **SEC. 302. EXTENSION OF STATE OPTION TO PROVIDE MED-**
2 **ICAL ASSISTANCE FOR CERTAIN INDIVID-**
3 **UALS WHO ARE PATIENTS IN CERTAIN INSTI-**
4 **TUTIONS FOR MENTAL DISEASES.**

5 (a) MAKING PERMANENT STATE PLAN AMENDMENT
6 OPTION TO PROVIDE MEDICAL ASSISTANCE FOR CER-
7 TAIN INDIVIDUALS WHO ARE PATIENTS IN CERTAIN IN-
8 STITUTIONS FOR MENTAL DISEASES.—Section 1915(l)(1)
9 of the Social Security Act (42 U.S.C. 1396n(l)(1)) is
10 amended by striking “With respect to calendar quarters
11 beginning during the period beginning October 1, 2019,
12 and ending September 30, 2023,” and inserting “With re-
13 spect to calendar quarters beginning on or after October
14 1, 2019,”.

15 (b) MAINTENANCE OF EFFORT REVISION.—Section
16 1915(l)(3) of the Social Security Act (42 U.S.C.
17 1396n(l)(3)) is amended—

18 (1) in subparagraph (A)—

19 (A) in the matter preceding clause (i), by
20 striking “other than under this title”; and

21 (B) in clause (i), by striking “or, if high-
22 er,” and all that follows through “in accordance
23 with this subsection”; and

24 (2) by adding at the end the following new sub-
25 paragraph:

1 “(D) APPLICATION OF MAINTENANCE OF
2 EFFORT REQUIREMENTS TO CERTAIN
3 STATES.—In the case of a State with a State
4 plan amendment in effect as of September 30,
5 2023, for the 1-year period beginning on the
6 date of enactment of this subparagraph, the
7 provisions of subparagraph (A) shall be applied
8 as if the amendments to that subparagraph
9 made by the **[insert short title of Act]** had
10 never been made.”.

11 (c) ADDITIONAL REQUIREMENTS.—

12 (1) IN GENERAL.—Section 1915(l)(4) of the
13 Social Security Act (42 U.S.C. 1396n(l)(4)) is
14 amended—

15 (A) in subparagraph (A), by striking
16 “through (D)” and inserting “through (F)”;

17 (B) in subparagraph (D), by adding at and
18 below clause (ii)(II), the following flush sen-
19 tence:

20 “With respect to calendar quarters beginning
21 on or after October 1, 2025, the State shall
22 have in place evidence-based, substance use dis-
23 order-specific individual placement criteria and
24 utilization management approaches to ensure
25 placement of an eligible individual in an appro-

1 appropriate level of care and, prior to the approval of
2 a State plan amendment for which approval is
3 sought on or after such date, shall notify the
4 Secretary of how the State will ensure that the
5 requirements of clauses (i) and (ii) will be
6 met.”; and

7 (C) by adding at the end the following new
8 subparagraph:

9 “(E) REVIEW PROCESS.—With respect to
10 calendar quarters beginning on or after October
11 1, 2025, the State shall have in place a process
12 to review the compliance of eligible institutions
13 for mental diseases with nationally recognized,
14 evidence-based, substance use disorder-specific
15 program standards specified by the State.”.

16 (2) ONE-TIME ASSESSMENT.—Section
17 1915(l)(4) of the Social Security Act (42 U.S.C.
18 1396n(l)(4)), as amended by paragraph (1), is fur-
19 ther amended by adding at the end the following
20 new subparagraph:

21 “(F) ASSESSMENT.—

22 “(i) IN GENERAL.—The State shall,
23 not later than 12 months after the ap-
24 proval of a State plan amendment de-
25 scribed in this subsection (or, in the case

1 such State has such an amendment ap-
2 proved as of September 30, 2023, not later
3 than 12 months after the date of enact-
4 ment of this subparagraph), commence an
5 assessment of—

6 “(I) the availability for individ-
7 uals enrolled under a State plan under
8 this title (or waiver of such plan) of
9 treatment in—

10 “(aa) each level of care de-
11 scribed in clause (i) of subpara-
12 graph (C); and

13 “(bb) each level of care de-
14 scribed in clause (ii) of subpara-
15 graph (C) at which the State pro-
16 vides medical assistance; and

17 “(II) the availability of medica-
18 tion-assisted treatment and medically
19 supervised withdrawal management
20 services for such individuals.

21 “(ii) **REQUIRED COMPLETION.**—The
22 State shall complete the assessment de-
23 scribed in clause (i) not later than 12
24 months after the date the State com-
25 mences such assessment.”.

1 of the Patient Protection and Affordable Care Act (Public
2 Law 111–148), section 610 of the American Taxpayer Re-
3 lief Act of 2012 (Public Law 112–240), section 1110 of
4 the Pathway for SGR Reform Act of 2013 (Public Law
5 113–67), section 110 of the Protecting Access to Medicare
6 Act of 2014 (Public Law 113–93), section 208 of the
7 Medicare Access and CHIP Reauthorization Act of 2015
8 (Public Law 114–10), section 50207 of division E of the
9 Bipartisan Budget Act of 2018 (Public Law 115–123),
10 section 1402 of division B of the Continuing Appropria-
11 tions Act, 2020, and Health Extenders Act of 2019 (Pub-
12 lic Law 116–59), section 1402 of division B of the Further
13 Continuing Appropriations Act, 2020, and Further Health
14 Extenders Act of 2019 (Public Law 116–69), section 103
15 of division N of the Further Consolidated Appropriations
16 Act, 2020 (Public Law 116–94), section 3803 of the
17 CARES Act (Public Law 116–136), section 2203 of the
18 Continuing Appropriations Act, 2021 and Other Exten-
19 sions Act (Public Law 116–159), section 1102 of the Fur-
20 ther Continuing Appropriations Act, 2021, and Other Ex-
21 tensions Act (Public Law 116–215), and section 103 of
22 division CC of the Consolidated Appropriations Act, 2021
23 (Public Law 116–260), is amended—

24 (1) in the matter preceding clause (i), by strik-
25 ing “Centers for Medicare & Medicaid Services Pro-

1 gram Management Account” and inserting “Admin-
2 istration for Community Living”;

3 (2) in clause (xii), by striking “and” at the end;

4 (3) in clause (xiii), by striking the period at the
5 end and inserting “; and”; and

6 (4) by inserting after clause (xiii) the following
7 new clause:

8 “(xiv) for fiscal year 2024,
9 \$15,000,000.”.

10 (b) AREA AGENCIES ON AGING.—Subsection
11 (b)(1)(B) of such section 119, as so amended, is amend-
12 ed—

13 (1) in clause (xii), by striking “and” at the end;

14 (2) in clause (xiii), by striking the period at the
15 end and inserting “; and”; and

16 (3) by inserting after clause (xiii) the following
17 new clause:

18 “(xiv) for fiscal year 2024,
19 \$15,000,000.”.

20 (c) AGING AND DISABILITY RESOURCE CENTERS.—
21 Subsection (c)(1)(B) of such section 119, as so amended,
22 is amended—

23 (1) in clause (xii), by striking “and” at the end;

24 (2) in clause (xiii), by striking the comma at
25 the end and inserting “; and”; and

1 (3) by inserting after clause (xiii) the following
2 new clause:

3 “(xiv) for fiscal year 2024,
4 \$5,000,000.”.

5 (d) COORDINATION OF EFFORTS TO INFORM OLDER
6 AMERICANS ABOUT BENEFITS AVAILABLE UNDER FED-
7 ERAL AND STATE PROGRAMS.—Subsection (d)(2) of such
8 section 119, as so amended, is amended—

9 (1) in clause (xii), by striking “and” at the end;

10 (2) in clause (xiii), by striking the period at the
11 end and inserting “; and”; and

12 (3) by inserting after clause (xiii) the following
13 new clause:

14 “(xiv) for fiscal year 2024,
15 \$15,000,000.”.

16 **SEC. 403. EXTENSION OF THE WORK GEOGRAPHIC INDEX**
17 **FLOOR UNDER THE MEDICARE PROGRAM.**

18 Section 1848(e)(1)(E) of the Social Security Act (42
19 U.S.C. 1395w-4(e)(1)(E)) is amended by striking “Janu-
20 ary 1, 2024” and inserting “January 1, 2025”.

21 **SEC. 404. EXTENDING INCENTIVE PAYMENTS FOR PARTICI-**
22 **PATION IN ELIGIBLE ALTERNATIVE PAYMENT**
23 **MODELS.**

24 (a) IN GENERAL.—Section 1833(z) of the Social Se-
25 curity Act (42 U.S.C. 1395l(z)) is amended—

1 (1) in paragraph (1)(A)—

2 (A) by striking “with 2025” and inserting
3 “with 2026”; and

4 (B) by inserting “, or, with respect to
5 2026, 1.75 percent” after “3.5 percent”.

6 (2) in paragraph (2)—

7 (A) in subparagraph (B)—

8 (i) in the header, by striking “2025”
9 and inserting “2026”; and

10 (ii) in the matter preceding clause (i),
11 by striking “2025” and inserting “2026”;

12 (B) in subparagraph (C)—

13 (i) in the header, by striking “2026”
14 and inserting “2027”; and

15 (ii) in the matter preceding clause (i),
16 by striking “2026” and inserting “2027”;

17 and

18 (C) in subparagraph (D), by striking “and
19 2025” and inserting “2025, and 2026”; and

20 (3) in paragraph (4)(B), by inserting “, or,
21 with respect to 2026, 1.75 percent” after “3.5 per-
22 cent”.

23 (b) CONFORMING AMENDMENTS.—Section
24 1848(q)(1)(C)(iii) of the Social Security Act (42 U.S.C.
25 1395w-4(q)(1)(C)(iii)) is amended—

1 (1) in subclause (II), by striking “2025” and
2 inserting “2026”; and

3 (2) in subclause (III), by striking “2026” and
4 inserting “2027”.

5 **SEC. 405. PAYMENT RATES FOR DURABLE MEDICAL EQUIP-**
6 **MENT UNDER THE MEDICARE PROGRAM.**

7 (a) AREAS OTHER THAN RURAL AND NONCONTIG-
8 UOUS AREAS.—The Secretary shall implement section
9 414.210(g)(9)(v) of title 42, Code of Federal Regulations
10 (or any successor regulation), to apply the transition rule
11 described in the first sentence of such section to all appli-
12 cable items and services furnished in areas other than
13 rural or noncontiguous areas (as such terms are defined
14 for purposes of such section) through December 31, 2024.

15 (b) ALL AREAS.—The Secretary shall not implement
16 section 414.210(g)(9)(vi) of title 42, Code of Federal Reg-
17 ulations (or any successor regulation) until January 1,
18 2025.

19 (c) IMPLEMENTATION.—Notwithstanding any other
20 provision of law, the Secretary may implement the provi-
21 sions of this section by program instruction or otherwise.

1 **SEC. 406. EXTENDING THE INDEPENDENCE AT HOME MED-**
2 **ICAL PRACTICE DEMONSTRATION PROGRAM**
3 **UNDER THE MEDICARE PROGRAM.**

4 (a) IN GENERAL.—Section 1866E of the Social Secu-
5 rity Act (42 U.S.C. 1395cc–5) is amended—

6 (1) in subsection (e)—

7 (A) in paragraph (1), by striking “10-
8 year” and inserting “12-year”; and

9 (B) in paragraph (5)—

10 (i) in the second sentence, by striking
11 “tenth” and inserting “twelfth”; and

12 (ii) in the third sentence, by striking
13 “tenth” and inserting “twelfth”; and

14 (2) in subsection (h), by striking “and
15 \$9,000,000 for fiscal year 2021” and inserting “,
16 \$9,000,000 for fiscal year 2021, and \$3,000,000 for
17 fiscal year 2024”.

18 (b) EFFECTIVE DATE.—The amendments made by
19 subsection (a) shall take effect as if included in the enact-
20 ment of Public Law 111–148.

21 **SEC. 407. INCREASE IN SUPPORT FOR PHYSICIANS AND**
22 **OTHER PROFESSIONALS IN ADJUSTING TO**
23 **MEDICARE PAYMENT CHANGES.**

24 Section 1848(t)(1)(D) of the Social Security Act (42
25 U.S.C. 1395w–4(t)(1)(D)) is amended by striking “1.25
26 percent” and inserting “2.5 percent”.

1 **SEC. 408. REVISED PHASE-IN OF MEDICARE CLINICAL LAB-**
2 **ORATORY TEST PAYMENT CHANGES.**

3 (a) REVISED PHASE-IN OF REDUCTIONS FROM PRI-
4 VATE PAYOR RATE IMPLEMENTATION.—Section
5 1834A(b)(3) of the Social Security Act (42 U.S.C.
6 1395m–1(b)(3)) is amended—

7 (1) in subparagraph (A), by striking “through
8 2026” and inserting “through 2027”; and

9 (2) in subparagraph (B)—

10 (A) in clause (ii), by striking “through
11 2023” and inserting “through 2024”; and

12 (B) in clause (iii), by striking “2024
13 through 2026” and inserting “2025 through
14 2027”.

15 (b) REVISED REPORTING PERIOD FOR REPORTING
16 OF PRIVATE SECTOR PAYMENT RATES FOR ESTABLISH-
17 MENT OF MEDICARE PAYMENT RATES.—Section
18 1834A(a)(1)(B) of the Social Security Act (42 U.S.C.
19 1395m–1(a)(1)(B)) is amended—

20 (1) in clause (i), by striking “December 31,
21 2023” and inserting “December 31, 2024”; and

22 (2) in clause (ii)—

23 (A) by striking “January 1, 2024” and in-
24 serting “January 1, 2025”; and

25 (B) by striking “March 31, 2024” and in-
26 serting “March 31, 2025”.

1 **SEC. 409. EXTENSION OF ADJUSTMENT TO CALCULATION**
2 **OF HOSPICE CAP AMOUNT UNDER MEDI-**
3 **CARE.**

4 Section 1814(i)(2)(B) of the Social Security Act (42
5 U.S.C. 1395f(i)(2)(B)) is amended—

6 (1) in clause (ii), by striking “2032” and in-
7 serting “2033”; and

8 (2) in clause (iii), by striking “2032” and in-
9 serting “2033”.

10 **TITLE V—OFFSETS**

11 **SEC. 501. MEDICAID IMPROVEMENT FUND.**

12 Section 1941(b)(3)(A) of the Social Security Act (42
13 U.S.C. 1396w-1(b)(3)(A)), as amended by section 2342
14 of the Continuing Appropriations Act, 2024 and Other
15 Extensions Act (Public Law 118-15), is amended by strik-
16 ing “\$6,357,117,810” and inserting [“\$_____”].

17 **SEC. 502. MEDICARE IMPROVEMENT FUND.**

18 Section 1898(b)(1) of the Social Security Act (42
19 U.S.C. 1395iii(b)(1)) is amended by striking “during and
20 after fiscal year 2022, \$180,000,000” and inserting the
21 following: “during and after—

22 “(A) fiscal year 2022, \$180,000,000; and

23 “(B) fiscal year 2024, [\$570,000,000]”.