



H.R. 3716: Ensuring Access to Quality Medicaid Providers Act (Bucshon, R-IN)

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FLOOR SCHEDULE:

March 2, 2016 under a structured [rule](#), which makes in order four amendments.

TOPLINE SUMMARY:

[H.R. 3716](#) would aid states in combating waste, fraud and abuse in the Medicaid system by providing states increased access to the names and specialties of providers terminated from participating in Medicaid.

COST:

The [Congressional Budget Office](#) (CBO) estimates that the bill would reduce direct spending by \$28 million over the 2016-2026 period. Because the legislation would affect direct spending; pay-as-you-go procedures apply. Enacting the bill would not affect revenues.

CONSERVATIVE CONCERNS:

- **Expand the Size and Scope of the Federal Government?** No.
- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

DETAILED SUMMARY AND ANALYSIS:

Prior to the passage of the Affordable Care Act, if a state terminated a provider's participation in the Medicaid program for fraud or other poor behavior, the provider could continue participate in Medicaid in another state. This left states excessively vulnerable to waste, fraud and abuse. Section 6501 of the ACA increased scrutiny on these providers by requiring states to terminate Medicaid providers who had been terminated in another state due to fraudulent or criminal activities. However, a 2014 [report](#) by the Office of the Inspector General (OIG) found continued participation of providers in Medicaid after being terminated by a state. According to the report, Medicaid paid \$7.4 million to 94 providers for services provided after termination from the initial state. The OIG found the lack of a comprehensive data source for identifying providers as one cause for a state's inability to accurately identify terminated providers.

This bill would increase oversight by requiring states to report identifying information on terminated Medicaid providers to the Secretary of Health and Human Services (HHS). This information would include the provider's names, specialty, date of birth, reason for the termination and effective date. In addition, managed care entities would be required by the state to include a provision in their contract that providers who had previously been terminated from Medicaid, Medicare or the Children's Health Insurance Program

(CHIP) would be ineligible to participate in a managed care entity's network serving Medicaid patients. Beginning on January 1, 2018, no federal funds would be used to pay for managed care expenditures if the entity does not comply with this requirement. The secretary, in consultation with state Medicaid agencies, would establish a uniform terminology regarding the reasons for provider termination. Providers who participate in a fee-for-service model or through a managed care entity, would be required to enroll with the state and provide identifying information.

This bill would ensure all the requirements made under this bill would also be applicable to CHIP.

Finally, this bill would require states to publish a directory of Medicaid providers and indicate if the provider is accepting new patients.

AMENDMENTS:

Buschon (R-IN); Collins (R-NY); Welch (D-VT); Tonko (D-NY): This manager's amendment would make technical changes to the bill including changing the short title of the bill. The amendment would allow the secretary and states additional time to comply with the bill's provisions by pushing back the effective dates. In addition, the amendment requires the OIG to submit a report on the implementation of this bill, and an assessment of the amount of federal reimbursements paid to states in violation of this bill.

Jackson Lee (D-TX): This amendment clarifies the termination of a Medicaid or CHIP provider is not effective until the deadline for appeal has expired.

Jackson Lee (D-TX): This amendment would require the secretary to submit to Congress an annual report on the demographics of the providers who have been terminated and the demographics of the population served by such providers.

Moore (D-WI): This amendment would require states on an expedited basis to correct the directory of Medicaid providers to accurately reflect Medicaid providers accepting new patients.

COMMITTEE ACTION:

This bill was introduced by Representative Bucshon on October 8, 2015, and referred to the House Committee on Energy and Commerce. The committee held a mark-up on November 17, 2015, and the bill was reported out, as amended, by voice vote.

ADMINISTRATION POSITION:

The Administration supports House passage of H.R. 3716 because it improves program integrity for Medicaid and the Children's Health Insurance Program (CHIP).

CONSTITUTIONAL AUTHORITY:

According to the sponsor, Congress has the power to enact this legislation pursuant to the following: The Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States.

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