

116TH CONGRESS
1ST SESSION

S. 1773

To amend titles XVIII and XIX of the Social Security Act to make improvements to the treatment of the United States territories under the Medicare and Medicaid programs, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 11, 2019

Mr. SANDERS (for himself, Mr. MERKLEY, Mrs. GILLIBRAND, Mr. BLUMENTHAL, Ms. HARRIS, Mr. BOOKER, Ms. WARREN, and Mr. MARKEY) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend titles XVIII and XIX of the Social Security Act to make improvements to the treatment of the United States territories under the Medicare and Medicaid programs, 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 “Territories Health Equity Act of 2019”.

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—MEDICAID

Sec. 101. Elimination of general Medicaid funding limitations (“cap”) for territories.

Sec. 102. Elimination of specific Federal medical assistance percentage (FMAP) limitation for territories; temporary increase in FMAP for Puerto Rico and the Virgin Islands to 100 percent.

Sec. 103. Application of Medicaid waiver authority to all of the territories.

Sec. 104. Permitting Medicaid DSH allotments for territories.

TITLE II—MEDICARE

Subtitle A—Part A

Sec. 201. Calculation of Medicare DSH payments for IPPS hospitals in Puerto Rico.

Sec. 202. Rebasing target amount for hospitals in territories.

Sec. 203. Medicare DSH target adjustment for hospitals in territories.

Subtitle B—Part B

Sec. 211. Application of part B deemed enrollment process to residents of Puerto Rico; special enrollment period and limit on late enrollment penalties.

Subtitle C—Medicare Advantage (Part C)

Sec. 221. Adjustment in benchmark for low-base payment counties in Puerto Rico.

Subtitle D—Part D

Sec. 231. Improved use of allocated prescription drug funds by territories.

Sec. 232. Report on treatment of territories under Medicare part D.

TITLE III—MISCELLANEOUS

Sec. 301. Modified treatment of territories with respect to application of ACA annual health insurance provider fees.

Sec. 302. Medicaid and CHIP territory transparency and information.

Sec. 303. Report on exclusion of territories from Exchanges.

Sec. 304. Access to coverage for individuals in certain areas without any available Exchange plans.

Sec. 305. Extension of family-to-family health information centers program to territories.

- 1 **TITLE I—MEDICAID**
- 2 **SEC. 101. ELIMINATION OF GENERAL MEDICAID FUNDING**
- 3 **LIMITATIONS (“CAP”) FOR TERRITORIES.**
- 4 (a) IN GENERAL.—Section 1108 of the Social Secu-
- 5 rity Act (42 U.S.C. 1308) is amended—

1 (1) in subsection (f), in the matter preceding
 2 paragraph (1), by striking “subsection (g)” and in-
 3 serting “subsections (g) and (h)”;

4 (2) in subsection (g)(2), in the matter pre-
 5 ceding subparagraph (A), by inserting “subsection
 6 (h)” after “subject to”; and

7 (3) by adding at the end the following new sub-
 8 section:

9 “(h) SUNSET OF MEDICAID FUNDING LIMITATIONS
 10 FOR PUERTO RICO, THE VIRGIN ISLANDS, GUAM, THE
 11 NORTHERN MARIANA ISLANDS, AND AMERICAN SAMOA.—
 12 Subsections (f) and (g) shall not apply to Puerto Rico,
 13 the Virgin Islands, Guam, the Northern Mariana Islands,
 14 and American Samoa beginning with fiscal year 2020.”.

15 (b) CONFORMING AMENDMENTS.—

16 (1) Section 1902(j) of the Social Security Act
 17 (42 U.S.C. 1396a(j)) is amended by striking “, the
 18 limitation in section 1108(f),”.

19 (2) Section 1903(u) of the Social Security Act
 20 (42 U.S.C. 1396b(u)) is amended by striking para-
 21 graph (4).

22 (c) EFFECTIVE DATE.—The amendments made by
 23 this section shall apply beginning with fiscal year 2020.

1 **SEC. 102. ELIMINATION OF SPECIFIC FEDERAL MEDICAL**
 2 **ASSISTANCE PERCENTAGE (FMAP) LIMITA-**
 3 **TION FOR TERRITORIES; TEMPORARY IN-**
 4 **CREASE IN FMAP FOR PUERTO RICO AND**
 5 **THE VIRGIN ISLANDS TO 100 PERCENT.**

6 Section 1905(b) of the Social Security Act (42 U.S.C.
 7 1396d(b)) is amended—

8 (1) in clause (2), by inserting “for fiscal years
 9 before fiscal year 2020” after “American Samoa”;
 10 and

11 (2) by adding at the end the following new sen-
 12 tence: “Notwithstanding the first sentence of this
 13 subsection, for each of fiscal years 2020 and 2021,
 14 the Federal medical assistance percentage for Puerto
 15 Rico and the Virgin Islands shall be 100 percent.”.

16 **SEC. 103. APPLICATION OF MEDICAID WAIVER AUTHORITY**
 17 **TO ALL OF THE TERRITORIES.**

18 (a) IN GENERAL.—Section 1902(j) of the Social Se-
 19 curity Act (42 U.S.C. 1396a(j)) is amended—

20 (1) by striking “American Samoa and the
 21 Northern Mariana Islands” and inserting “Puerto
 22 Rico, the Virgin Islands, Guam, the Northern Mar-
 23 iana Islands, and American Samoa”;

24 (2) by striking “American Samoa or the North-
 25 ern Mariana Islands” and inserting “Puerto Rico,

1 the Virgin Islands, Guam, the Northern Mariana Is-
2 lands, or American Samoa”;

3 (3) by inserting “(1)” before “Notwith-
4 standing”;

5 (4) by inserting “except as otherwise provided
6 in this subsection,” after “Notwithstanding any
7 other requirement of this title”; and

8 (5) by adding at the end the following:

9 “(2) The Secretary may not waive under this sub-
10 section—

11 “(A) the requirement of subsection
12 (a)(10)(A)(i)(IX) (relating to coverage of adults for-
13 merly under foster care) with respect to any terri-
14 tory;

15 “(B) the requirement to provide medical assist-
16 ance for early and periodic screening, diagnostic,
17 and treatment services (as defined in section
18 1905(r)) for individuals who are eligible for assist-
19 ance under the program and who under the age of
20 21; or

21 “(C) the requirement to provide for payment
22 for services described in section 1905(a)(2)(C) fur-
23 nished by a Federally-qualified health center and
24 services described in section 1905(a)(2)(B) furnished

1 by a rural health clinic in accordance with the provi-
 2 sions of subsection (bb).”.

3 (b) EFFECTIVE DATE.—The amendments made by
 4 this section shall apply beginning October 1, 2019.

5 **SEC. 104. PERMITTING MEDICAID DSH ALLOTMENTS FOR**
 6 **TERRITORIES.**

7 Section 1923(f) of the Social Security Act (42 U.S.C.
 8 1396r-4(f)) is amended—

9 (1) in paragraph (6), by adding at the end the
 10 following new subparagraph:

11 “(C) TERRITORIES.—

12 “(i) FISCAL YEAR 2020.—For fiscal
 13 year 2020, the DSH allotment for Puerto
 14 Rico, the Virgin Islands, Guam, the North-
 15 ern Mariana Islands, and American Samoa
 16 shall bear the same ratio to \$300,000,000
 17 as the ratio of the number of individuals
 18 who are low-income or uninsured and re-
 19 siding in such respective territory (as esti-
 20 mated from time to time by the Secretary)
 21 bears to the sums of the number of such
 22 individuals residing in all of the territories.

23 “(ii) SUBSEQUENT FISCAL YEAR.—
 24 For each subsequent fiscal year, the DSH
 25 allotment for each such territory is subject

1 to an increase in accordance with para-
 2 graph (3).”; and

3 (2) in paragraph (9), by inserting before the pe-
 4 riod at the end the following: “, and includes, begin-
 5 ning with fiscal year 2020, Puerto Rico, the Virgin
 6 Islands, Guam, the Northern Mariana Islands, and
 7 American Samoa”.

8 **TITLE II—MEDICARE**

9 **Subtitle A—Part A**

10 **SEC. 201. CALCULATION OF MEDICARE DSH PAYMENTS FOR** 11 **IPPS HOSPITALS IN PUERTO RICO.**

12 Section 1886(d)(9)(D)(iii) of the Social Security Act
 13 (42 U.S.C. 1395ww(d)(9)(D)(iii)) is amended to read as
 14 follows:

15 “(iii) Subparagraph (F) (relating to dispropor-
 16 tionate share payments), including application of
 17 subsection (r), except that for this purpose—

18 “(I) the sum described in clause (ii) of this
 19 subparagraph shall be substituted for the sum
 20 referred to in paragraph (5)(F)(ii)(I); and

21 “(II) for discharges occurring on or after
 22 October 1, 2019, subclause (I) of paragraph
 23 (5)(F)(vi) shall be applied by substituting for
 24 the numerator described in such subclause the
 25 number of subsection (d) Puerto Rico hospital’s

patient days for the cost reporting period involved which were made up of patients who (for such days) were entitled to benefits under part A of this title and were—

“(aa) entitled to supplementary security income benefits (excluding any State supplementation) under title XVI of this Act;

“(bb) eligible for medical assistance under a State plan under title XIX; or

“(cc) receiving aid or assistance under any plan of the State approved under title I, X, XIV, or XVI.”.

SEC. 202. REBASING TARGET AMOUNT FOR HOSPITALS IN TERRITORIES.

Section 1886(b)(3) of the Social Security Act (42 U.S.C. 1395ww(b)(3)) is amended by adding at the end the following new subparagraph:

“(M)(i) For each cost reporting period beginning on or after October 1, 2019, in the case of a hospital located in a territory of the United States, there shall be substituted for the target amount otherwise determined under subparagraph (A) the rebased target amount (as defined in clause (ii)), if such substitution results

1 in an amount of payment under this section to
 2 the hospital for such period that is greater than
 3 the amount of payment that would be made
 4 under this section to the hospital for such pe-
 5 riod if this subparagraph were not to apply.

6 “(ii) For purposes of this subparagraph,
 7 the term ‘rebased target amount’ has the mean-
 8 ing given the term ‘target amount’ in subpara-
 9 graph (A), except that—

10 “(I) there shall be substituted for the
 11 preceding 12-month cost reporting period
 12 the 12-month cost reporting period begin-
 13 ning during fiscal year 2015 (or, at the op-
 14 tion of the hospital, beginning during fiscal
 15 year 2017);

16 “(II) any reference in subparagraph
 17 (A)(i) to the ‘first such cost reporting pe-
 18 riod’ is deemed a reference to the first cost
 19 reporting period following the 12-month
 20 cost reporting period beginning during fis-
 21 cal year 2015 (or, at the option of the hos-
 22 pital, beginning during fiscal year 2017);
 23 and

24 “(III) the applicable percentage in-
 25 crease shall only be applied under subpara-

1 graph (B)(ii) for cost reporting periods be-
 2 ginning on or after October 1, 2019.

3 “(iii) Nothing in this subparagraph shall
 4 affect any pending request by a hospital for a
 5 new target amount for any cost reporting pe-
 6 riod beginning during a fiscal year before fiscal
 7 year 2020.”.

8 **SEC. 203. MEDICARE DSH TARGET ADJUSTMENT FOR HOS-**
 9 **PITALS IN TERRITORIES.**

10 Section 1886(b)(3) of the Social Security Act (42
 11 U.S.C. 1395ww(b)(3)), as amended by section 202, is fur-
 12 ther amended by adding at the end the following new sub-
 13 paragraph:

14 “(N)(i) For each cost reporting period be-
 15 ginning on or after October 1, 2019, in the case
 16 of a hospital that is located in a territory of the
 17 United States other than Puerto Rico and that
 18 would be a subsection (d) hospital if it were lo-
 19 cated in one of the 50 States, the target
 20 amount shall be increased by—

21 “(I) in the case that such hospital has
 22 a disproportionate patient percentage of
 23 not less than 15 percent and not greater
 24 than 40 percent, 10 percent; and

1 “(II) in the case that such hospital
2 has a disproportionate patient percentage
3 of greater than 40 percent, 10 percent plus
4 60 percent of the number of percentage
5 points by which such hospital’s dispropor-
6 tionate patient percentage exceeds 40 per-
7 cent.

8 “(ii) For purposes of this subparagraph,
9 the term ‘disproportionate patient percentage’
10 has the meaning given such term in subsection
11 (d)(5)(F)(vi), except that in applying such
12 meaning any reference under such subsection to
13 individuals entitled to supplementary security
14 income under title XVI shall be deemed for pur-
15 poses of this subparagraph to include individ-
16 uals—

17 “(I) eligible for medical assistance
18 under a State plan under title XIX; or

19 “(II) receiving aid or assistance under
20 any plan of the territory approved under
21 title I, X, XIV, or XVI.”.

Subtitle B—Part B

**SEC. 211. APPLICATION OF PART B DEEMED ENROLLMENT
PROCESS TO RESIDENTS OF PUERTO RICO;
SPECIAL ENROLLMENT PERIOD AND LIMIT
ON LATE ENROLLMENT PENALTIES.**

(a) APPLICATION OF PART B DEEMED ENROLLMENT
PROCESS TO RESIDENTS OF PUERTO RICO.—Section
1837(f)(3) of the Social Security Act (42 U.S.C.
1395p(f)(3)) is amended by striking “, exclusive of Puerto
Rico”.

(b) EFFECTIVE DATE.—The amendment made by
subsection (a) shall apply to individuals whose initial en-
rollment period under section 1837(d) of the Social Secu-
rity Act begins on or after the first day of the effective
month, specified by the Secretary of Health and Human
Services under section 1839(j)(1)(C) of such Act, as added
by subsection (c)(2).

(c) TRANSITION PROVIDING SPECIAL ENROLLMENT
PERIOD AND LIMIT ON LATE ENROLLMENT PENALTIES
FOR CERTAIN MEDICARE BENEFICIARIES.—Section 1839
of the Social Security Act (42 U.S.C. 1395r) is amend-
ed—

(1) in the first sentence of subsection (b), by in-
serting “subject to section 1839(j)(2),” after “sub-
section (i)(4) or (l) of section 1837,”; and

1 (2) by adding at the end the following new sub-
2 section:

3 “(j) SPECIAL RULES FOR CERTAIN RESIDENTS OF
4 PUERTO RICO.—

5 “(1) SPECIAL ENROLLMENT PERIOD, COVERAGE
6 PERIOD FOR RESIDENTS WHO ARE ELIGIBLE BUT
7 NOT ENROLLED.—

8 “(A) IN GENERAL.—In the case of a tran-
9 sition individual (as defined in paragraph (3))
10 who is not enrolled under this part as of the
11 day before the first day of the effective month
12 (as defined in subparagraph (C)), the Secretary
13 shall provide for a special enrollment period
14 under section 1837 of 7 months beginning with
15 such effective month during which the indi-
16 vidual may be enrolled under this part.

17 “(B) COVERAGE PERIOD.—In the case of
18 such an individual who enrolls during such spe-
19 cial enrollment period, the coverage period
20 under section 1838 shall begin on the first day
21 of the second month after the month in which
22 the individual enrolls.

23 “(C) EFFECTIVE MONTH DEFINED.—In
24 this section, the term ‘effective month’ means a
25 month, not earlier than October 2020 and not

1 later than January 2021, specified by the Sec-
 2 retary.

3 “(2) REDUCTION IN LATE ENROLLMENT PEN-
 4 ALTIES FOR CURRENT ENROLLEES AND INDIVID-
 5 UALS ENROLLING DURING TRANSITION.—

6 “(A) IN GENERAL.—In the case of a tran-
 7 sition individual who is enrolled under this part
 8 as of the day before the first day of the effec-
 9 tive month or who enrolls under this part on or
 10 after the date of the enactment of this sub-
 11 section but before the end of the special enroll-
 12 ment period under paragraph (1)(A), the
 13 amount of the late enrollment penalty imposed
 14 under section 1839(b) shall be recalculated by
 15 reducing the penalty to 15 percent of the pen-
 16 alty otherwise established.

17 “(B) APPLICATION.—Subparagraph (A)
 18 shall be applied in the case of a transition indi-
 19 vidual who—

20 “(i) is enrolled under this part as of
 21 the month before the effective month, for
 22 premiums for months beginning with such
 23 effective month; or

24 “(ii) enrolls under this part on or
 25 after the date of the enactment of this Act

1 and before the end of the special enroll-
2 ment period under paragraph (1)(A), for
3 premiums for months during the coverage
4 period under this part which occur during
5 or after the effective month.

6 “(C) LOSS OF REDUCTION IF INDIVIDUAL
7 TERMINATES ENROLLMENT.—Subparagraph
8 (A) shall not apply to a transition individual if
9 the individual terminates enrollment under this
10 part after the end of the special enrollment pe-
11 riod under paragraph (1).

12 “(3) TRANSITION INDIVIDUAL DEFINED.—In
13 this section, the term ‘transition individual’ means
14 an individual who resides in Puerto Rico and who
15 would have been deemed enrolled under this part
16 pursuant to section 1837(f) before the first day of
17 the effective month but for the fact that the indi-
18 vidual was a resident of Puerto Rico, regardless of
19 whether the individual is enrolled under this part as
20 of such first day.”.

1 **Subtitle C—Medicare Advantage** 2 **(Part C)**

3 **SEC. 221. ADJUSTMENT IN BENCHMARK FOR LOW-BASE** 4 **PAYMENT COUNTIES IN PUERTO RICO.**

5 Section 1853(n) of the Social Security Act (42 U.S.C.
6 1395w–23(n)) is amended—

7 (1) in paragraph (1), by striking “and (5)” and
8 inserting “(5), and (6)”;

9 (2) in paragraph (4), by striking “In no case”
10 and inserting “Subject to paragraph (6), in no
11 case”; and

12 (3) by adding at the end the following new
13 paragraph:

14 “(6) SPECIAL RULES FOR BLENDED BENCH-
15 MARK AMOUNT FOR TERRITORIES.—

16 “(A) IN GENERAL.—Subject to subpara-
17 graph (B), the blended benchmark amount for
18 an area in a territory for a year (beginning with
19 2020) shall not be less than 80 percent of the
20 national average of the base payment amounts
21 specified in subparagraph (2)(E) for such year
22 for areas within the 50 States and the District
23 of Columbia.

24 “(B) LIMITATION.—In no case shall the
25 blended benchmark amount for an area in a

territory for a year under subparagraph (A) exceed the lowest blended benchmark amount for any area within the 50 States and the District of Columbia for such year.”.

Subtitle D—Part D

SEC. 231. IMPROVED USE OF ALLOCATED PRESCRIPTION DRUG FUNDS BY TERRITORIES.

Section 1935(e) of the Social Security Act (42 U.S.C. 1396u–5(e)) is amended by adding at the end the following new paragraph:

“(5) IMPROVED USE OF FUNDS FOR LOW-INCOME PART D ELIGIBLE INDIVIDUALS.—This subsection shall be applied beginning with fiscal year 2020 as follows, notwithstanding any other provision of this title:

“(A) CLARIFYING STATE FLEXIBILITY TO COVER NON-DUAL-ELIGIBLE INDIVIDUALS.—In this title, the term ‘medical assistance’ includes financial assistance furnished by a State under this subsection to part D eligible individuals who, if they were residing in one of the 50 States or the District of Columbia, would qualify as subsidy eligible individuals under section 1860D–14(a)(3), and without regard to wheth-

er such individuals otherwise qualify for medical assistance under this title.

“(B) 100 PERCENT FMAP TO REFLECT NO STATE MATCHING REQUIRED FOR PART D LOW INCOME SUBSIDIES.—The Federal medical assistance percentage applicable to the assistance furnished under this subsection is 100 percent.

“(C) LIMITED FUNDING FOR SPECIAL RULES.—Subparagraphs (A) and (B), and the provision of medical assistance for covered part D drugs to low-income part D eligible individuals for a State and period under this subsection, is limited to the amount specified in paragraph (3) for such State and period.”.

**SEC. 232. REPORT ON TREATMENT OF TERRITORIES
UNDER MEDICARE PART D.**

Paragraph (4) of section 1935(e) of the Social Security Act (42 U.S.C. 1396u–5(e)) is amended to read as follows:

“(4) REPORT ON APPLICATION OF SUBSECTION.—

“(A) IN GENERAL.—Not later than February 1, 2021, the Secretary shall submit to Congress a report on the application of this

1 subsection during the period beginning fiscal
2 year 2006 and ending fiscal year 2020.

3 “(B) INFORMATION TO BE INCLUDED IN
4 REPORT.—Such report shall include—

5 “(i) program guidance issued by the
6 Secretary to implement this subsection;

7 “(ii) for each territory, information on
8 the increased amount under paragraph (3)
9 and how the territory has applied such
10 amount, including the territory’s program
11 design, expenditures, and number of indi-
12 viduals (and dual-eligible individuals) as-
13 sisted; and

14 “(iii) differences between how such
15 territories are treated under part D of title
16 XVIII and under this title compared with
17 the treatment of the 50 States and the
18 District of Columbia under such part and
19 this title for different fiscal years within
20 the period covered under the report.

21 “(C) RECOMMENDATIONS.—Such report
22 shall include recommendations for improving
23 prescription drug coverage for low-income indi-
24 viduals in each territory, including rec-

ommendations regarding each of the following
alternative approaches:

“(i) Adjusting the aggregate amount
specified in paragraph (3)(B).

“(ii) Allowing residents of the terri-
tories to be subsidy eligible individuals
under section 1860D–14, notwithstanding
subsection (a)(3)(F) of such section, or
providing substantially equivalent low-in-
come prescription drug subsidies to such
residents.”.

TITLE III—MISCELLANEOUS

SEC. 301. MODIFIED TREATMENT OF TERRITORIES WITH RESPECT TO APPLICATION OF ACA ANNUAL HEALTH INSURANCE PROVIDER FEES.

Section 9010 of the Patient Protection and Afford-
able Care Act (26 U.S.C. 4001 note prec.) is amended—

(1) in subsection (b)(1), by inserting “subject
to subsection (k)(1),” after “With respect to each
covered entity,”; and

(2) by adding at the end the following:

“(k) SPECIAL RULES FOR TREATMENT OF TERRI-
TORIES.—

“(1) IN GENERAL.—In applying this section
with respect to United States health risks located

1 outside of the 50 States or the District of Columbia
2 for years beginning with 2020—

3 “(A) the amount of the fee under sub-
4 section (b) shall be 50 percent of the amount
5 of the fee otherwise determined;

6 “(B) the Secretary shall deposit the
7 amount of such fees collected for each territory
8 into a separate account; and

9 “(C) amounts in such an account for a ter-
10 ritory for a year are appropriated and shall be
11 available to the territory in accordance with
12 paragraph (2).

13 “(2) AVAILABILITY OF FUNDS.—Amounts made
14 available to a territory under paragraph (1)(C) with
15 respect to a territory for a year shall be made avail-
16 able to the territory, upon application of the terri-
17 tory to the Secretary of Health and Human Serv-
18 ices, only for the following purposes, as elected by
19 the territory in such application:

20 “(A) INCREASED PRESCRIPTION DRUG AS-
21 SISTANCE FOR LOW-INCOME PART D ELIGIBLE
22 INDIVIDUALS.—For increasing the amount of
23 funds made available to the territory under sec-
24 tion 1935(e)(3) of the Social Security Act (42
25 U.S.C. 1396u–5(e)(3)) for assistance for low-in-

1 come part D eligible individuals in obtaining
2 part D covered drugs.

3 “(B) SATISFYING STATE MEDICAID
4 MATCHING REQUIREMENT.—For the territory to
5 meet non-Federal matching requirements im-
6 posed with respect to obtaining Federal finan-
7 cial participation under title XIX of the Social
8 Security Act.”.

9 **SEC. 302. MEDICAID AND CHIP TERRITORY TRANSPARENCY**
10 **AND INFORMATION.**

11 (a) PUBLICATION OF INFORMATION ON FEDERAL
12 EXPENDITURES UNDER MEDICAID AND CHIP IN THE
13 TERRITORIES.—Not later than 180 days after the date
14 of the enactment of this Act, the Secretary of Health and
15 Human Services shall publish, and periodically update, on
16 the Internet site of the Centers for Medicare & Medicaid
17 Services information on Medicaid and CHIP carried out
18 in the territories of the United States. Such information
19 shall include, with respect to each such territory—

20 (1) the income levels established by the terri-
21 tory for purposes of eligibility of an individual to re-
22 ceive medical assistance under Medicaid or child
23 health assistance under CHIP;

24 (2) the number of individuals enrolled in Med-
25 icaid and CHIP in such territory;

1 (3) any State plan amendments in effect to
2 carry out Medicaid or CHIP in such territory;

3 (4) any waiver of the requirements of title XIX
4 or title XXI issued by the Secretary to carry out
5 Medicaid or CHIP in the territory, including a waiv-
6 er under section 1115 of the Social Security Act (42
7 U.S.C. 1315), any application for such a waiver, and
8 any documentation related to such application (in-
9 cluding correspondence);

10 (5) the amount of the Federal and non-Federal
11 share of expenditures under Medicaid and CHIP in
12 such territory;

13 (6) the systems in place for the furnishing of
14 health care items and services under Medicaid and
15 CHIP in such territory;

16 (7) the design of CHIP in such territory; and

17 (8) other information regarding the carrying
18 out of Medicaid and CHIP in the territory that is
19 published on such Internet site with respect to car-
20 rying out Medicaid and CHIP in each State and the
21 District of Columbia.

22 (b) DEFINITIONS.—In this section:

23 (1) CHIP.—The term “CHIP” means the
24 State Children’s Health Insurance Program under
25 title XXI of the Social Security Act.

1 (2) MEDICAID.—The term “Medicaid” means
 2 the Medicaid program under title XIX of the Social
 3 Security Act.

4 (3) TERRITORY.—The term “territory of the
 5 United States” includes Puerto Rico, the Virgin Is-
 6 lands of the United States, Guam, the Northern
 7 Mariana Islands, and American Samoa.

8 **SEC. 303. REPORT ON EXCLUSION OF TERRITORIES FROM**
 9 **EXCHANGES.**

10 (a) IN GENERAL.—Not later than February 1, 2020,
 11 the Secretary of Health and Human Services shall submit
 12 to Congress a report that details the adverse impacts in
 13 each territory from the practical exclusion of the terri-
 14 tories from the provisions of part II or III of subtitle D
 15 of title I of the Patient Protection and Affordable Care
 16 Act insofar as such provisions provide for the establish-
 17 ment of an American Health Benefit Exchange or the ad-
 18 ministration of a federally facilitated Exchange in each
 19 State and in the District of Columbia for the purpose of
 20 making health insurance more affordable and accessible
 21 for individuals and small businesses.

22 (b) INFORMATION IN REPORT.—The report shall in-
 23 clude information on the following:

24 (1) An estimate of the total number of individ-
 25 uals residing in each territory with health insurance

1 coverage, and the total number of individuals in each
2 territory without health insurance coverage.

3 (2) The number of health insurance issuers in
4 each territory and the health insurance coverage
5 each such issuer offers.

6 (3) An estimate of the number of individuals re-
7 siding in each territory who are denied premium and
8 cost-sharing assistance that would otherwise be
9 available to them for obtaining health insurance cov-
10 erage through an Exchange if they resided in one of
11 the 50 States or in the District of Columbia.

12 (4) An estimate of the amount of Federal as-
13 sistance described in paragraph (3) that is not being
14 made available to residents of each territory.

15 (5) An estimate of the number of small employ-
16 ers in each territory that would be eligible to pur-
17 chase health insurance coverage through a Small
18 Business Health Options Program (SHOP) Market-
19 place that would operate as part of an Exchange if
20 the employers were in one of the 50 States or in the
21 District of Columbia.

1 **SEC. 304. ACCESS TO COVERAGE FOR INDIVIDUALS IN CER-**
 2 **TAIN AREAS WITHOUT ANY AVAILABLE EX-**
 3 **CHANGE PLANS.**

4 Part 2 of subtitle D of title I of the Patient Protec-
 5 tion and Affordable Care Act (42 U.S.C. 18031 et seq.)
 6 is amended by adding at the end the following:

7 **“SEC. 1314. ACCESS TO COVERAGE FOR INDIVIDUALS IN**
 8 **CERTAIN AREAS WITHOUT ANY AVAILABLE**
 9 **EXCHANGE PLANS.**

10 “(a) IN GENERAL.—

11 “(1) COVERAGE THROUGH DC EXCHANGE.—

12 Not later than 3 months after the date of enactment
 13 of this section, the Secretary, in consultation with
 14 the Secretary of the Treasury and the Director of
 15 the Office of Personnel Management, shall establish
 16 a mechanism to ensure that, for any plan year be-
 17 ginning on or after the date described in subsection
 18 (c), any individual described in paragraph (2) has
 19 access to health insurance coverage which is at least
 20 as broad as the coverage available to Members of
 21 Congress and congressional staff (as defined in sec-
 22 tion 1312(d)(3)(D)) through the Exchange operating
 23 in the District of Columbia. Such individuals shall
 24 be eligible for any premium tax credit under section
 25 36B of the Internal Revenue Code of 1986, reduced
 26 cost sharing under section 1402, and advance deter-

mination and payment of such credits or such reductions under section 1412 to be administered by the Secretary, in consultation with the Secretary of the Treasury and the Director of the Office of Personnel Management. The District of Columbia, its residents, and small businesses shall be held harmless from any increased costs resulting from the enactment of this section.

“(2) INDIVIDUAL DESCRIBED.—An individual described in this paragraph is any individual who—

“(A) is not eligible to enroll in an employer-sponsored health plan (excluding such a plan that would not be considered minimum essential coverage due to the application of subparagraph (C) of section 36B(c)(2) of the Internal Revenue Code of 1986 if such subparagraph applied to such plan); and

“(B) is a bona fide resident of any possession of the United States (as determined under section 937(a) of such Code) in which the Secretary certifies that no qualified health plan is offered through an Exchange established under this title.

“(3) POSSESSION OF THE UNITED STATES.—

For purposes of this section, the term ‘possession of

the United States' shall include such possessions as are specified in section 937(a)(1) of the Internal Revenue Code of 1986.

“(b) TREATMENT OF POSSESSIONS.—

“(1) PAYMENTS TO POSSESSIONS.—

“(A) MIRROR CODE POSSESSION.—The Secretary of the Treasury shall periodically (but not less frequently than annually) pay to each possession of the United States with a mirror code tax system amounts equal to the loss to that possession by reason of the application of this section (determined without regard to paragraph (2)) with respect to taxable years beginning after the date described in subsection (c). Such amounts shall be determined by the Secretary of the Treasury based on information provided by the government of the respective possession.

“(B) OTHER POSSESSIONS.—The Secretary of the Treasury shall periodically (but not less frequently than annually) pay to each possession of the United States which does not have a mirror code tax system amounts estimated by the Secretary of the Treasury as being equal to the aggregate benefits that would

1 have been provided to residents of such posses-
 2 sion by reason of the application of this section
 3 for any taxable years beginning after the date
 4 described in subsection (c) if a mirror code tax
 5 system had been in effect in such possession.
 6 The preceding sentence shall not apply with re-
 7 spect to any possession of the United States un-
 8 less such possession has a plan, which has been
 9 approved by the Secretary of the Treasury,
 10 under which such possession will promptly dis-
 11 tribute such payments to the residents of such
 12 possession.

13 “(2) COORDINATION WITH CREDIT ALLOWED
 14 AGAINST UNITED STATES INCOME TAXES.—No cred-
 15 it shall be allowed against United States income
 16 taxes for any taxable year under section 36B of the
 17 Internal Revenue Code of 1986 to any person—

18 “(A) to whom a credit is allowed against
 19 taxes imposed by the possession by reason of
 20 this section (determined without regard to this
 21 paragraph) for such taxable year, or

22 “(B) who is eligible for a payment under
 23 a plan described in paragraph (1)(B) with re-
 24 spect to such taxable year.

1 “(3) MIRROR CODE TAX SYSTEM.—For pur-
 2 poses of this subsection, the term ‘mirror code tax
 3 system’ means, with respect to any possession of the
 4 United States, the income tax system of such posses-
 5 sion if the income tax liability of the residents of
 6 such possession under such system is determined by
 7 reference to the income tax laws of the United
 8 States as if such possession were the United States.

9 “(4) TREATMENT OF PAYMENTS.—For pur-
 10 poses of section 1324(b)(2) of title 31, United
 11 States Code, or any similar rule of law, the pay-
 12 ments under this subsection shall be treated in the
 13 same manner as a refund due from the credit al-
 14 lowed under section 36B of the Internal Revenue
 15 Code of 1986.

16 “(c) DATE DESCRIBED.—The date described in this
 17 subsection is the date on which the Secretary establishes
 18 the mechanism described in subsection (a)(1).”.

19 **SEC. 305. EXTENSION OF FAMILY-TO-FAMILY HEALTH IN-**
 20 **FORMATION CENTERS PROGRAM TO TERRI-**
 21 **TORIES.**

22 Section 501(c)(3)(C) of the Social Security Act (42
 23 U.S.C. 701(c)) is amended by striking “years 2018 and

1 2019” and inserting “year 2018 and each fiscal year
2 thereafter”.

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